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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF BUTTE

FRANK SOLINSKY,  
Petitioner/Plaintiff,  
vs.  
CITY OF CHICO,  
CITY COUNCIL OF CHICO,  
BRENDAN VIEG, Chico Director of  
Planning and Community Development,  
DOES 1 THROUGH 50,  
Respondents/Defendants.

CHICO HOUSING ACTION TEAM,  
*aka "CHAT,"* a nonprofit California  
corporation,  
THE BALL FAMILY LIVING TRUST,  
Ted Ball and Justine Ball as Trustees,  
ROES 1 THROUGH 50,  
Real Parties in Interest/  
Defendants

Case No. 19CV03324

1. VERIFIED PETITION FOR WRIT OF  
MANDATE TO SET ASIDE UNLAWFUL  
APPROVAL OF LAND USE ENTITLEMENT  
(CCP §1085);
2. VERIFIED PETITION FOR WRIT OF  
MANDATE TO SET ASIDE UNLAWFUL  
APPROVAL OF LAND USE ENTITLEMENT  
(CCP §1094.5);
3. COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF (CCP §1060);
4. VERIFIED PETITION FOR VIOLATION OF  
THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT ("CEQA" – PUBLIC  
RESOURCES CODE §21000 ET SEQ.) AND  
INJUNCTIVE RELIEF

## INTRODUCTION

1. Petitioner/Plaintiff FRANK SOLINSKY seeks relief from this Court to redress a flagrant example of unlawful conduct and abuse of discretion by the City of Chico (hereafter “City”) in promoting a favored project, at the expense of those who don’t have special influence in City Hall. In direct contravention of State law, and without any evidence, the City created out of thin air a land use entitlement approval for a large multi-unit development of rental “sleeping cabins” for the poor and homeless, referred to as “Simplicity Village.” The City’s action violates the applicable land use laws while disregarding the housing/construction statutes that protect the health and safety of human inhabitants. These violations cause further damage to the Petitioner on the adjacent land, to others nearby who also protested the City’s actions, and to the surrounding environment, from the long term impacts of an unlawful substandard and congested rental cabin “village.” In doing this the City unlawfully evaded environment review under CEQA. As alleged herein, the law requires that the City’s sham land use entitlement must be rescinded, honest environmental review must be required for any project to go forward, and the City should be held to account for the harm caused to Petitioner.

## PARTIES

2. Petitioner/Plaintiff FRANK SOLINSKY (hereafter “Petitioner”) owns real property and business interests on Notre Dame Blvd. in Chico, both across the street from and abutting the parcel for the proposed “Simplicity Village.” Petitioner’s parcel across the street is APN 040-030-037, and it is the location for the Payless Building Supply business. Petitioner’s abutting parcel is APN 040-030-030, with a small office and business –Wood-Ply Forest Products—located there.

3. Respondent/Defendant CITY OF CHICO (“City”) is a lawful and duly organized City within the State of California, with all of the “police powers” granted under Article XI§7 of the California Constitution, including the authority and power to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations, in particular land use regulations, provided they are not in conflict with the superceding general laws of the State of California.

4. Respondent BRENDAN VIEG is, and at all times mentioned herein was, an individual employee of the City of Chico in the position of Planning and Community Development Director.

Respondent Vieg is named as a Respondent in his official capacity as the “director” referenced in Chico Municipal Code Chapter 19.02 who is vested with discretion to: decide on behalf of the City the interpretation of the City’s land use regulations, consider the facts pertaining to a particular land use to determine the appropriate classification of the land use, and to apply the requirements of the California Environmental Quality Act (“CEQA”) for environmental review.

5. Respondent CITY COUNCIL OF CHICO is the duly elected legislative body of the City. Respondent CITY COUNCIL is named as a party in this action in its official capacity as the final decision-making body of the City for appeals of land use entitlement determinations, which is vested with discretion to consider and make the final decisions for the City as to: the interpretation of the City’s land use regulations, the facts pertaining to a particular land use to determine the appropriate classification of the land use, and to apply the requirements of the California Environmental Quality Act (“CEQA”) for environmental review.

6. Real Party in Interest Chico Housing Action Team, Inc. (“CHAT”) is, and at all times mentioned herein was, a non-profit corporation organized and existing under the laws of the State of California. CHAT is the applicant for the proposed Simplicity Village project, which would be located on land along Notre Dame Blvd. on APN 040-030-028. CHAT was and is the beneficiary of the City’s interpretation of the land use regulations so as to create a new type of land use entitlement applicable to land in any zone of the City and in particular the zone for APN 040-030-028. CHAT has a beneficial interest in APN 040-030-028 by virtue of a lease from the BALL FAMILY TRUST specifically for this project, with an initial term of 2 years, coupled with 4 options to extend of 4 years duration each.

7. Real Party in Interest THE BALL FAMILY LIVING TRUST (hereafter “Ball Trust”) is, and at all times herein mentioned was, a duly formed living trust under California law, acting by and through its trustees Ted Ball and Justine Ball. The Ball Trust was and is the beneficiary of the City’s interpretation of the land use regulations so as to create a new type of land use entitlement applicable to land in any zone of the City and in particular the zone for APN 040-030-028. The Ball Trust is the owner of legal title to APN 040-030-028 and the Lessor of a portion of that property to CHAT as the Lessee. The unlawful land use interpretation by the City, as alleged herein, provides a substantial

1 benefit to the Ball Trust by supporting the long term lease to CHAT with a 2 year initial term and 4  
2 options to extend of 4 years each. Because the land use interpretation requested from the City by  
3 CHAT was made for the proposed project on APN 040-030-028, that newly created land use  
4 entitlement runs with the land owned by the Ball Trust.

5 8. Petitioner is ignorant of the true names and capacities of the Respondents sued herein as  
6 Does 1-50, inclusive, and therefore sues such Respondents by these fictitious names. Petitioner will  
7 amend this Petition to allege such Doe Respondents true names and capacities when ascertained.  
8 Petitioner is informed and believes, and thereon alleges, that each of the fictitiously-named  
9 Respondents is responsible in some manner for each of the acts and/or omissions alleged herein.

10 9. Petitioner is ignorant of the true names and capacities of the Real Parties in Interest sued  
11 herein as Roes 1-50, inclusive, and therefore sues such Real Parties in Interest by these fictitious  
12 names. Petitioner will amend this Petition to allege such Real Party in Interests' true names and  
13 capacities when ascertained. Petitioner is informed and believe, and thereon alleges, that each of the  
14 fictitiously named Real Parties in Interest have a substantial interest in the subject matter of the  
15 litigation, such that their interests should not be adjudicated by the Court without opportunity for  
16 them to defend or advocate their interest in the matter.

17 10. At all times herein mentioned, each of the Respondents and/or Real Parties in Interest  
18 were the agents and/or employees of each of the remaining Respondents and/or Real Parties in  
19 Interest and, in doing the things hereinafter alleged, were acting within the course and scope of such  
20 agency.

### 21 JURISDICTION AND VENUE

22 11. This court has jurisdiction over the matter alleged in this Petition pursuant to Code of Civil  
23 Procedures §1085 and §1094.5, §1060, and the rights and privileges guaranteed under the  
24 Constitution of the State of California.

25 12. Venue is proper in Butte County Superior Court in accordance with Code of Civil  
26 Procedure §395 because the City of Chico, Staff, and CHAT maintain their principle administrative  
27 offices in Butte County, City of Chico; and the real property which is the subject of this action is  
28 located in the City of Chico, Butte County.

1 **STANDING**

2 13. Petitioner has standing to assert the claims alleged in this Petition because they are  
3 beneficially interested in this matter, as required by Code of Civil Procedure §1086. Petitioner has a  
4 direct and beneficial interest in Respondents' compliance with laws bearing upon the approval of the  
5 Simplicity Village and related projects. These interests will be directly and adversely affected by  
6 the Project, which violates the law as set forth in this Petition and would cause substantial harm to  
7 the interests of the Petitioner.

8 14. Petitioner actively participated in the 2019 Simplicity Village approval process, including  
9 seeking administrative appeal and review in an attempt to ensure that Respondent complied with all  
10 relevant Building Codes and other applicable laws.

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 15. Petitioner has performed and will perform all conditions precedent to the filing of this  
13 Petition, and have actively participated in the administrative review process prior to the date of final  
14 denial of appeals by the City Council, and thus has exhausted all administrative remedies to the  
15 extent required by law.

16 By this verified Petition, Petitioner alleges as follows:

17 **FACTUAL ALLEGATIONS**

18 16. On or about September 27, 2018, CHAT issued a proposal for a transitional housing  
19 development called "Simplicity Village," consisting of 33 "sleeping cabins" on the southerly 2.6  
20 acre portion of the 4.74 acre parcel located on Notre Dame Blvd., south of Morrow Lane, and  
21 designated APN 040-030-028 (the "Real Property"). Such Real Property is illustrated (highlighted in  
22 pink) on the Assessor's Parcel Map attached hereto as Exhibit "A" and incorporated herein by  
23 reference. The 33 sleeping cabins would be intended to provide shelter for 46 people; with 20 cabins  
24 at a size of 8'x12' floor space (96 sq. ft.) designed for single occupancy, and 13 cabins at a size of  
25 8'x16' (128 sq. ft.) designed for double occupancy.

26 17. Attached as Exhibit "B," and incorporated by reference herein, is a copy of a Site Plan  
27 submitted to the City by CHAT for Simplicity Village. The Site Plan illustrates locations for the  
28 aforementioned sleeping cabins as well as various communal buildings, etc. at the Real Property.

1 18. Attached as Exhibit “C,” and incorporated by reference herein, is a more detailed color  
2 brochure created by CHAT to illustrate the proposed development. The locations of the 33 sleeping  
3 cabins (erroneously labeled here as “Tiny Homes”) are clearly depicted. Also depicted is the  
4 extensive area developed for driveway, parking, and access to the sleeping cabins; along with a  
5 number of large buildings and structures designated as – Multi-Purpose Community Building,  
6 Meeting Rooms, Gate Monitor House/ADA Restroom & Shower, Bathrooms/Laundry/Kitchen  
7 Building, Workshops, 3 Storage Units/Shipping Containers, Covered Outdoor Dining Area, Bike  
8 Racks, and other improvement details. The site will have secure perimeter fencing all around,  
9 irrigated landscaping, and a garden. The Business Plan submitted by CHAT to the City for  
10 Simplicity Village estimates that the first year capital investment snf operational expense to put in  
11 these improvements will be about “\$702,416 plus in-kind donations” (CHAT Business Plan, at  
12 Section 4).

13 19. The 2.6 acre area for the Simplicity Village site –as located on the 4.74 acre legal parcel—  
14 is defined in the binding long term lease agreement between CHAT and Real Party Ball Family  
15 Living Trust. A true copy of the lease agreement is attached hereto as Exhibit “D” and incorporated  
16 by reference herein. The initial lease term is for two years, followed by four options to extend the  
17 lease for four years each. The lease term is to commence within 30 days after the Lessee/CHAT  
18 obtains entitlements/approval from the City to proceed with the project; as alleged herein, *infra*, the  
19 City’s entitlement approval was given on June 14, 2019. According to the lease agreement CHAT  
20 was to give Real Party Ball Family Living Trust an initial payment of \$3,000.00 as consideration for  
21 the lease, followed by monthly payments of \$1,200.00 in the first year, and \$1,700.00 per month  
22 thereafter with increases based on the CPI.

23 20. CHAT has been quite open about the long-term nature of it’s Simplicity Village project,  
24 stating in its Business Plan dated 5/17/2019 (see “Executive Summary”) that:

25 “CHAT will coordinate the construction of 33 tiny homes on 2.6 acres of privately owned  
26 property that is currently subject to a binding letter of intent (LOI), subject to final City approval  
27 of the project. The LOI provides for a total lease term of 18 years, in two year increments at  
28 Chat’s election. CHAT would report to the City the progress of SV after the initial two year term  
and before the expiration of each succeeding two year term, or as agreed, so that City can  
regularly appraise the project and its progress in meeting its goals. CHAT is the lessee with a  
private landlord and will require the collaboration with the City to enable the project to fall

1 within the terms of the State Shelter Crisis Statute. The property will be improved with Cal  
2 Water, City sewer, and electricity and is within a third of a mile of a B-line bus route.”  
3 CHAT’s statement that it’s purely private project on land leased from a “private landlord” (rather  
4 than the City) requires further “collaboration” from the City, is a revelatory admission that without  
5 the City doing more Simplicity Village would not satisfy the necessary requirements of the Shelter  
6 Crisis Statute. In fact, as alleged further herein, the City never did more to “collaborate” by taking  
7 any role of ownership, control or direct participation in Simplicity Village – thus leaving CHAT in  
8 violation of both State law and Chico’s municipal code.

9 21. The Real Property where Simplicity Village would be located is surrounded by a lumber  
10 yard, construction yards, a saw mill, maintenance yard, distributions operations, a church and school  
11 as well as commercial office spaces. About one block to the east of the Real Property there are  
12 developed neighborhoods of low density residential and suburban residential homes. None of the  
13 surrounding land uses are either similar or compatible with the proposed relatively high density  
14 multi-unit rental use for Simplicity Village. Moreover, Simplicity Village is intended by CHAT to  
15 be much more than just a place for people to have a safe place to sleep. Because the occupants are  
16 “disadvantaged” in various ways, CHAT plans to partner with the County Departments of  
17 Behavioral Health, Social Services, Employment, and Public Health to provide “on-site wraparound  
18 services.” (See the Simplicity Village Business Plan, §1.) There would be a constant flow of  
19 caseworkers and social service support personnel. CHAT envisions daily group activities such as  
20 “vocational and social skill building,” “workshops (such as money management),” “peer to peer  
21 support groups,” “Alcoholics Anonymous groups, a Narcotics Anonymous group, Nonviolent  
22 Communication training, art groups, and many other daytime programs.” The high density of  
23 residents, the robust daily programs of activities, the services that bring a high flow of personnel and  
24 visitors other than residents, the vehicular as well as higher than usual pedestrian traffic, will all  
25 generate significant impacts on the surrounding properties, the natural environment, and the  
26 neighbors. Furthermore, there deserves to be consideration for the impacts of the existing industrial  
27 uses of surrounding properties/businesses on the persons brought to stay in the Simplicity Village  
28 sleeping cabins. For example, the adjacent Payless Lumber Supply starts business at 5:30 a.m. with  
bright lights, forklifts and trucks that are noisy and that generate dust. The residents in a Simplicity

Village will be significantly impacted by the surrounding work activities in an industrial zone. At a minimum there must be environmental review of this project (which has never occurred), and the obvious significant impacts require preparation of an Environmental Impact Report.

22. Petitioner's property is shown on Exhibit "A" as APN 040-030-037 and APN 040-030-030 (highlighted in yellow) – which is among the properties adjacent and closest to the proposed Simplicity Village. Petitioner is directly impacted by the disputed approval of land use entitlement for Simplicity Village, Petitioner will be directly harmed by the City's derogation of it's mandatory legal duties, and Petitioner is directly and beneficially interested in the relief sought by this proceeding.

23. The subject Real Property proposed for Simplicity Village is zoned as light manufacturing/industrial, "ML". The Chico Municipal Code 19.46.010A describes the purpose of the ML zone as:

*"The ML zoning district is applied to areas appropriate for light assembly and manufacturing, wholesaling, warehousing and distribution, agricultural and industrial processing within structures, and support commercial services. The ML zoning district is primarily intended to implement the Industrial Office Mixed Use and the Manufacturing and Warehousing land use designations of the General Plan."*

**19.46.020 Manufacturing/industrial zone land uses and permit requirements.**

Table 4-8 identifies the uses of land allowed by these Regulations in each industrial/manufacturing zoning district, and the land use entitlement required to establish the use. Where the last column of the table ("Subject to Standards in Section/Chapter") includes a section or chapter number, the regulations in the referenced section/chapter apply to the use; however, provisions in other sections/chapters may apply as well.

(Ord. 2185; Ord. 2205; Ord. 2223, Ord. 2342, Ord. 2427 §25)

**TABLE 4-8 - ALLOWED USES AND PERMIT REQUIREMENTS FOR MANUFACTURING & INDUSTRIAL ZONING DISTRICTS**

LAND USE (1)	PERMIT REQUIREMENTS BY ZONE			Subject to Standards in Section/Chapter:
	ML	MG	IOMU	
Schools - Specialized education and training	P	P	P	
Temporary events	UP	UP	UP	19.22
<b>RESIDENTIAL USES</b>				
Caretaker housing	P	P	P	
Emergency shelters	UP		UP	
Live/work	P		P	
Residential Care homes 7 or more clients	UP(2)			
Temporary emergency shelters	P	P	P	19.22

# KEY TO PERMIT REQUIREMENTS

Symbol	Permit Requirement	Procedure is in Section/chapter:
P	Permitted use, zoning clearance required.	<a href="#">19.16.070</a>
UP	Conditional use, use permit required.	<a href="#">19.24</a>
TU	Temporary use.	<a href="#">19.22</a>
	Use not allowed. (See Section <a href="#">19.02.020(E)</a> regarding uses not listed.)	

24. Notice that for “ML” under “RESIDENTIAL USES” the use described as “Emergency Shelters” requires “UP” – that is a Use Permit. Also under “RESIDENTIAL USES” the use described as “Temporary Emergency Shelters” requires “P” – that is a “permitted use” under the requirements of chapter 19.22 “Temporary Uses.” [The reference in the Table 4-8 to “Temporary events” falls under the heading of “RECREATION, EDUCATION & PUBLIC ASSEMBLY USES,” which requires a Use Permit in any event if Simplicity Village were to be viewed as a sort of “public assembly” use.]

25. Petitioner contends and herein alleges that Simplicity Village –a project requiring extensive construction at a capital investment over \$700,000 and expected to operate over a long term up to 18 years—is a development project of “Emergency shelters” requiring a Use Permit. Common sense allows no other conclusion.

26. However, the City claims that Simplicity Village is a “temporary use.” Petitioner disputes that contention, but if there were any conceivable or rational categorization of Simplicity Village as a sort of “temporary use,” then instead of the “Emergency Shelters” category the only theoretical category for these shelters would be “Temporary Emergency Shelters” as listed above in Table 4-8. Because “Temporary Emergency Shelters” is referenced to chapter 19.22 “Temporary Uses,” the applicable definition found at §19.22.020 “Temporary Uses, allowed by right” is:

D. Emergency Shelters. Temporary emergency shelters shall be permitted in any zoning district for a maximum of 27 days in any 90-day period, provided that the facilities are approved by the City Building Official and Fire Marshal prior to use, and provided that no other emergency shelter is operated within 500 feet during the same 90-day period.

Thus if “temporary emergency shelters” are located in the ML Zone, they are allowed as a matter of right but only “for a maximum of 27 days in any 90 day period.”

27. Even with this restriction on “temporary emergency shelters” Petitioner steadfastly maintains that Simplicity Village is not “temporary” in any factual or legal sense whatsoever.

Chapter 19.22 of the Chico Municipal Code governing “Temporary Uses” states that all such:

Temporary uses are short-term activities that might not meet the normal development or use standards of the applicable zoning district, but are acceptable because of their temporary nature.

There follows a list of described “temporary uses” noteworthy for their short-term nature the absence of any lasting alteration of the land. Typical examples are: “Car Washes” by charitable organizations limited to two days per month; “Construction Yards” on the premises of approved construction projects; “Arts and Crafts” exhibits on non-residential properties limited to 10 days; “Seasonal Sales Lots” for things like Christmas trees, limited to three months; “Farmers Markets” allowed no more than two times per week. And a critical condition of all “temporary uses” is:

**19.22.050 Condition of site.**

Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with these Regulations.

(Ord. 2185, Ord. 2494, §10)

In other words, the temporary use must be wiped away to leave no trace, so that the normally permitted uses of the zone may resume.

27. Petitioner contends and alleges that it is impossible to give the proposed Simplicity Village – a \$700,000+ investment that permanently alters the land and is planned to last up to 18 years-- the same categorization as “car washes” and “garage sales” and “farmers markets.” The interpretive rule of *ejusdem generis* does not allow it. The longest temporary use listed in chapter 19.22 is one year for a temporary office in the first phase of a development project (§19.22.020.G) and all the others are dramatically shorter.

28. The only factual contention made by the City that Simplicity Village is “temporary” is that the City’s earlier Declaration of a “Shelter Crisis” -- confirming a serious shortage of housing causing a significant number of people to be unable to find shelter—is due to expire on June 30, 2021, two years after the City approved Simplicity Village. Even then the City could and would only renew the Shelter Crisis Declaration. Even if unlikely one could theoretically hope that the housing shortage and “Shelter Crisis” would be fully solved and over within two years, but it is fatuous to characterize June 30, 2021 as a hard limit on the shelter crisis much less a termination date on the

1 existence of Simplicity Village.

2 29. No temporary use is allowed to exceed one year under any circumstances, pursuant to the  
3 California Building Code definition of “temporary” (California Building Code [“CBC”] Title 24,  
4 Part 2, vol.1, Chapter 2- Definitions, Page 90). It wouldn’t matter if Simplicity Village lasts for 2  
5 years or 18 years, it is impossible to define it as “temporary.” Simplicity Village cannot be  
6 developed where it is planned in the ML Zone without obtaining a Use Permit.

7 30. The primary significance of the City’s Declaration of a Shelter Crisis is that it allows the  
8 City to invoke the provisions of Gov. Code provisions (Gov. Code §§8698, 8698.1) that aid the  
9 construction of shelter for the homeless population. Under the terms of a Shelter Crisis Declaration,  
10 standard building codes may be suspended under defined conditions, and alternative codes may be  
11 substituted, provided they are applied to “Public Facilities” and meet minimum health and safety  
12 requirements. Specifically, in order for relaxed construction standards to be applied to homeless  
13 shelter units like the 33 “sleeping cabins” to be built at Simplicity Village, the Simplicity Village  
14 development itself must be part of a “Public Facility” that is “owned, operated, leased, or  
15 maintained, or any combination thereof, by the political subdivision” (§8698(c)) and part of a  
16 housing community “located on property leased or owned by a political subdivision.” (§8698(e))  
17 Despite CHAT’s requests for “collaboration” from the City on this very issue, the City has eschewed  
18 any involvement in Simplicity Village that would satisfy the “Public Facility” requirement.

19 31. On or about October 2, 2018, the City declared a Shelter Crisis for the purpose of availing  
20 the City of HEAP funding, a program that requires the declaration of a Crisis under Gov. Code  
21 §8698 as a pre-condition for eligibility. The Staff report makes it clear that the purpose was to meet  
22 HEAP eligibility requirements. The City Attorney provided a legal opinion to the Council indicating  
23 that the discretion granted under the statute was limited to “Public Facilities”. This understanding  
24 was confirmed to CHAT in an email from Assistant City Manager Chris Constantin of April 2, 2019.  
25 A true copy of the staff report and opinion of the City Attorney is attached hereto as Exhibit “E” and  
26 incorporated by reference herein. A true copy of the official Shelter Crisis Declaration is attached  
27 hereto as Exhibit “F” and incorporated by reference herein. And the email from Chris Constantin is  
28 attached hereto as Exhibit “G” and incorporated by reference herein.

1           32. The constraints and requirements of State law relating to a Shelter Crisis and the use of a  
2 “Public Facility” to create homeless shelter under relaxed construction standards is recognized  
3 explicitly in the City’s own Shelter Crisis Declaration – Ex. F, p. 2, ¶3. No such “Public Facility”  
4 has been created for Simplicity Village (or anywhere in the City of Chico), and the City has no legal  
5 authority to waive the California Building Code Standards for homeless shelter construction.

6           33. The City’s own Shelter Crisis Declaration – Ex. F, p. 2, ¶4 —further explicitly  
7 acknowledges that State law requires that any waiver of the California Building Code Standards for  
8 homeless shelter construction necessitates an express finding that the Standards may only be relaxed  
9 “to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the  
10 effect of the shelter crisis.” (See also Gov. Code §8698.1(a)) No such finding has been made in  
11 relation to Simplicity Village, and it is not possible to make such a finding as this project has been in  
12 formative planning stages for two years with no “delay” connected with the type of building  
13 standards required. Here again, the City has no legal authority to waive the California Building  
14 Code Standards for homeless shelter construction, in particular the Simplicity Village “sleeping  
15 cabins.”

16           34. In earlier discussions between the City and CHAT, as indicated in a November 20, 2018  
17 Council meeting, the City had directed staff to (a) work with CHAT to implement Simplicity  
18 Village; and (b) approve Simplicity Village to be located on the Real Property, and open discussions  
19 with property owners. This direction was founded upon the premise that this would be a City project  
20 by designating the Real Property a “Public Facility” through lease arrangements by the City. On or  
21 about January 30, 2019, Chris Constantin summarized the City’s strategy in a letter to CHAT; this  
22 letter was consistent with the previous recommendations of City Manager Mark Orme on November  
23 20, 2018. Again, on or about February 10, 2019, Chris Constantine sent an internal memorandum to  
24 Mark Orme, City Manager, updating and outlining the objectives of Staff as (a) leasing the property  
25 from the Ball Family Trust, acquiring necessary easements from adjacent property owners; and (b)  
26 entering into a lease with the Ball Family Trust to “secure the location as a public facility” and to  
27 draft a “Development and Operating Agreement with CHAT” to “...build and operate Simplicity  
28 Village.” However, these early cooperative plans between the City and CHAT foundered upon the

1 City's realization, and concerns by CHAT, that City involvement through a Public Facility would  
2 require payment of "prevailing wage" on the Simplicity Village project, and the expense of that  
3 would be prohibitive.

4 35. The April 2, 2019 email from Mr. Constantin to CHAT principals was in response to a  
5 letter from CHAT questioning the legality of compliance of the current plan with the Shelter Crisis  
6 for "sleeping cabins." The Assistant City Manager mysteriously describes a new "...win-win strategy  
7 to get SV going." In this letter he states that the "shelter crisis supports Brendan's assessment..."  
8 and "For the shelter crisis to apply explicitly, we would have to go down the original path which  
9 raised concerns for CHAT related to prevailing wage..." and "more legal involvement for the City  
10 which could lead to more delays." The letter makes no mention of the Temporary Use ordinance,  
11 and none of this information was made public. The documents were obtained by way of a Public  
12 Records Act request made by the Petitioner only after Petitioner learned that the City had, without  
13 any public notice, given a land use entitlement approval to Simplicity Village.

14 36. On or about May 7, 2019, the City adopted for future use the construction standards  
15 promulgated by the Department of Housing and Community Development, known as Appendix N  
16 and Appendix X, to be used as consistent construction standards for shelter housing if a local  
17 jurisdiction is to follow the prescribed Public Facility approach under State law. A true copy of the  
18 City staff report, Ordinance and the Appendices is attached hereto as Exhibit "H" and incorporated  
19 by reference herein.

20 37. On or about June 14, 2019, Petitioner discovered through unofficial channels and without  
21 prior notice, that Simplicity Village had been approved by the City under CMC §19.22.020.C. Had  
22 this not been discovered, the Petitioner would have remained unaware of the approval until  
23 construction began after the appeal periods had lapsed.

24 38. Shortly afterwards, after notifying the City of his status as an Interested Party, Petitioner  
25 received a copy of the Official Planning Director Interpretation, OPDI 19-01, indicating that  
26 Simplicity Village had been approved as a "Temporary Emergency Facility" under CMC  
27 §19.22.020.C. and that the appeal period had commenced. A true copy of OPDI 19-01 is attached  
28 hereto as Exhibit "I" and incorporated by reference herein.

1           39. Subsequent to learning of the approval, a PRA request was issued for correspondence  
2 to/from City Staff or CHAT regarding Simplicity Village. Through that request it was discovered  
3 that the Assistant City Manager had been working closely with CHAT on an alternative method of  
4 approval, under the direction of Brendan Vieg, in order to avoid the difficulties of developing the  
5 complex contract needed to make the City a party to the lease of the property and to avoid the  
6 prospect of having “prevailing wage” requirements imposed upon the project. There was no public  
7 notice or other public announcement that the City would not be a party to the planned development,  
8 pursuant to the Council decision of November 20, 2018.

9           40. Because of the terms of the Temporary Use Ordinance, and findings of the OPDI that held  
10 the proposal to be a “use by right”, no public hearings were held regarding the proposal, nor were  
11 surrounding residents notified of the approval or right to file a timely appeal. Nonetheless, the only  
12 remaining recourse was to appeal to the decision to the Planning Commission, and if denied, to the  
13 City Council.

14           41. Title 24, Chapter 1, Division 1 §1.1.3, known as the California Building Code (“Code”) establishes the scope and mandatory duty to apply the Code throughout the State of California:  
15  
16 *“The provisions of this Code shall apply to the construction, alteration, movement, enlargement,*  
17 *replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition*  
18 *of every building or structure or any appurtenances connected or attached to such buildings or*  
19 *structures throughout the State of California.”*

20           42. The sole option for suspending standard Codes is by an express declaration and  
21 substitution of alternative codes which meet basic Health and Safety Codes, pursuant to Gov. Code  
22 §8698 by the declaring jurisdiction.

23           43. The State enacted, and the City adopted, Appendices N/X as part of the Code expressly for  
24 the purpose of establishing requirements for various types of emergency housing, with express  
25 jurisdiction over “Sleeping Cabins”, the type of dwelling unit proposed for Simplicity Village.

26           44. Emergency Housing, defined by Appendix N, §N102.1, is permitted only during a Shelter  
27 Crisis. §N103.1 provides that *“Emergency Sleeping Cabins ..shall be occupied only during...a*  
28 *shelter crisis.”* and only *“buildings and structures constructed in accordance with the California*

1 *Building Standards Code, used as emergency housing, shall be permitted to be permanently*  
2 *occupied.”*

3 45. Because the Real Property is not “Public Facility”, the Codes cannot be suspended for a  
4 private<sup>45</sup>development. Only if standard Codes are suspended under Gov. Code §8698.1(b) can  
5 Appendix N be invoked as substitute Codes. Thus, the Code establishes a mandatory duty that  
6 standard Codes shall be applied in the absence of a suspension of those Codes pursuant to Gov.  
7 Code §8698, which jurisdiction is restricted to “Public Facilities”, not private development. If Gov.  
8 Code §8698 does not have jurisdiction over this project, then Appendix N cannot be invoked, and  
9 standard Codes must be applied. The City failed to do so, despite express mandates of the Code.

10 46. In order to avoid the issues raised by Chris Constantine in his letter of April 2, 1019,  
11 Planning and the City secretly resorted to a local Temporary Use Ordinance in an attempt to bypass  
12 the duty to apply Calif. Building Codes, or the Appendices to the Code which may be applied only  
13 to “Public Facilities” during a Shelter Crisis, and the due process and equal protections incorporated  
14 with all similar development proposals.

15 47. Because of the “Temporary” nature of the proposal, administrative discretion was  
16 exercised to waive all Development Impact Fees, further advancing the City policy to specifically  
17 facilitate this particular project by CHAT.

18 48. To further justify this set of findings, the OPDI also falsely and arbitrarily found that: the  
19 proposal met the objectives of the General Plan; that Appendix N would be voluntarily followed by  
20 CHAT; that Simplicity Village is a use by right that requires no use permit (or other permits); no  
21 public hearings were necessary; and the brief non-binding promises of the Simplicity Village  
22 “business plan” were somehow “similar” to a use permit and therefore excused obtaining a real use  
23 permit; and that all development impact fees could be waived.

24 49. Despite the provisions of CMC §19.16.060 the City did not conduct an environmental  
25 assessment of the Simplicity Village project in approving the project under the OPDI, nor was there  
26 any determination in conjunction with the OPDI of whether the project would be considered a  
27 “project” under 14 CCR §15378 or otherwise exempt from the California Environmental Quality  
28 Act (CEQA). This is consistent with the City’s bizarre treatment of the Simplicity Village

1 development as falling into the same category as a "Garage Sale" or a "Car Wash" or a "Farmer's  
2 Market" stand which literally require nothing in the way of review, regulation or permits from the  
3 City.

4 50. On or about June 24, 2019, Frank Solinsky, and several others filed a timely appeal with  
5 the Planning Commission. On or about August 1, 2019 the appeal was heard by the Planning  
6 Commission. The appeal was denied on a vote of 6-0-1.

7 51. On or about August 12, 2019, Frank Solinsky filed a timely appeal with the City Council.  
8 On or about September 24, 2019, the appeal was heard by the City Council and was denied on a vote  
9 of 5-1-1. At the time of filing this Petition, all administrative remedies have been exhausted.

10 52. This action is brought by Petitioner not just in his private capacity but also in the public  
11 interest, to vindicate important public rights, and the relief sought by Petitioner would be impossible  
12 to measure fully in money damages such that there is no economic benefit to Petitioner to justify the  
13 cost of litigation for purely economic return. Upon successful conclusion of this legal proceeding,  
14 Petitioner will request a full award of attorneys' fees and costs on the "private attorney general  
15 statute" of CCP §1021.5, or any other such grounds as the law supports and the court deems  
16 appropriate.

#### 17 18 **FIRST CAUSE OF ACTION**

19 (Writ of Mandate- CCP §1085 et seq.)

20 53. Petitioner incorporates by reference each of the allegations set forth in paragraphs 1-52 of  
21 this Petition as if set forth fully herein.

22 54. Petitioner has no other adequate remedy in the course of law.

23 55. Petitioner has a beneficial interest in the proceedings as an owner of real property in the  
24 City of Chico, and as a owner of a business interest, all of which will be directly impacted by the  
25 unlawful conduct of Respondent City. Additionally, Petitioner, as a public member, has a right to  
26 address the government to ensure that all laws are faithfully and fully complied with by the City of  
27 Chico and its elected officers and staff.

28 56. Petitioner will suffer irreparable injury if the writ is not granted, as Simplicity Village will

1 be allowed to proceed in violation of the mandatory duties of the City of Chico Municipal Code, the  
2 California Building Code, and other laws of the State of California as alleged herein.

3 57. The issues presented within this Writ are of great public importance to City of Chico and  
4 its inhabitants and must be resolved quickly and without undue delay.

5 58. The Respondents proceeded arbitrarily and capriciously, without and in excess of  
6 jurisdiction, failed to provide a fair trial of the facts and law, and exercised a prejudicial abuse of  
7 discretion by failing to proceed in a manner required by law.

8 59. Title 24, et seq. (CBC Chapter 1, Division I, Section 1.1.3).establishes that the California  
9 Building Code "*shall*" be applied to the entire scope and purpose of the Code "*throughout the State*  
10 *of California.*" The language of the enactment, by use of the term "*shall*" is obligatory, and explicit.  
11 While some administrative discretion is vested in the authority of the Planning Director, that  
12 authority is not sufficient to waive the duty or duties mandated by this enactment.

13 60. The enactment is applicable to the Public entity, as mandated by §1.1.3.1 (supra) which  
14 requires that "*...the following standards in the California Code of Regulations, title 24, Parts 2,2.5,*  
15 *3,4,5,6,9,10 and 11 shall apply to all occupancies and applications not regulated by a state*  
16 *agency*". All allegations in this complaint are for applications not regulated by the State, and within  
17 the jurisdiction of the City of Chico.

18 61. The Petitioner/Plaintiff hereby specifically pleads that a local ordinance does not have  
19 statutory authority to waive the mandatory duties of Title 24, et seq. and that Title 24 et seq.  
20 establishes mandatory duties with regard to the applicability of Title 24 to the Simplicity Village  
21 Proposal. Neither Title 24, nor Appendices N/X of the Code were invoked or otherwise applied to  
22 the ultimate findings of the OPDI 19-01 that the proposed project was a use by right not requiring a  
23 permit, and to be exempt from these mandatory enactments.

24 62. Respondent City has disregarded and violated the mandatory duties of:  
25 (a) the California Building Code Standards and Title 24, et seq., by deliberately approving and  
26 allowing substandard construction of housing shelters and dwellings in the Simplicity Village  
27 project, to the harm and detriment of the public, Petitioner, and especially the prospective occupants  
28 of such substandard construction; and

(b) Gov. Code §8698(c) in approving Simplicity Village without the required “Public Facility” required to allow such development as proposed; and

(c) Gov. Code §8698(e) in approving Simplicity Village and the emergency sleeping cabins incorporated in that project, without requiring that the development be “located on property leased or owned by a political subdivision”; and

(d) Gov. Code §8698.1(b) by suspending compliance with the state and local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety; and

(e) Gov. Code §8698.1(b) by failing and refusing to consider or make a finding that the suspension of health and safety regulations is necessary because “strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis”; and

(f) Gov. Code §8698.1(b) by suspending compliance with the state and local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety without applying the requirement of this section that such action may only be taken for “public facilities open to the homeless pursuant to this chapter”; and

(f) Chico Resolution No. 82-18, the Declaration of a “Shelter Crisis” which incorporates all of the same duties of Gov. Code §8698 and §8698.1 to the same effect as a local regulation; and

(g) CMC §19.46.020 regulating the ML Zone and requiring a Use Permit for “Emergency Shelters” and cumulatively the “zoning clearance” required for any purported “temporary emergency shelters”; and

(h) the entirety of the provisions of CMC 19.22 pertaining to “Temporary Uses” and Respondent City’s: application thereof to Simplicity Village as if it is “temporary”; the approval of Simplicity Village thereunder as a “use by right” as if it were the same as a residential “Car Wash” or a “Garage Sale”; the failure to apply the one year limitation of “temporary” under the definition of “temporary” in Title 24, Part 2, vol.1, Chapter 2-Definitions, page 90 which is applicable to all new construction such as Simplicity Village; the failure to apply the requirement of §19.22.050 to Simplicity Village to clean and remove from the land all “evidence of the temporary use upon completion” of the temporary period; the failure to enforce, as or if applicable, the condition of §19.22.020.D that temporary emergency shelters shall be permitted only for a maximum of 27 days

1 in any 90 day period; the misapplication of §19.22.020.N&C to determine contrary to their terms  
2 that the Simplicity Village “sleeping cabins” are similar temporary uses to emergency facilities  
3 rather than “shelters” as otherwise specifically described.

4 63. Petitioner, and each and every other individual who opposed Simplicity Village have been  
5 treated differently from other appellants and citizens of the City of Chico, and have been subjected  
6 to deliberately biased, inconsistent, erroneous and unfair enforcement of the Chico Municipal Code,  
7 State law, the laws regarding the Shelter Crisis Declaration and Appendices “N” and “X”, and the  
8 California Building Code. This violates Government code §65852, which requires just, uniform, fair  
9 and reasonable enforcement of ordinances and local laws.

10 64. Petitioner herein requests an immediate stay of the project known as Simplicity Village,  
11 and that no building or grading permit be issued, nor any work performed to advance the  
12 construction of Simplicity Village on and at the Real Property.

13 WHEREFORE, Petitioner prays judgment as hereinafter set forth.

14  
15 **SECOND CAUSE OF ACTION**

16 ((Writ of Mandate- CCP §1094.5 et seq.)

17 65. Petitioner incorporates by reference each of the allegations set forth in paragraphs 1-64 of  
18 this Petition as if set forth fully herein.

19 66. In the course of applying the review procedures of the CMC arbitrarily selected by  
20 Respondent City to reach a desired result in favor of approval of Simplicity City rather than apply  
21 the law, the City failed to provide a fair trial of the facts and law; the City exercised a prejudicial  
22 abuse of discretion by failing to proceed in a manner required by law; and the decisions and  
23 interpretation are not supported by the findings, and the findings are not supported by the evidence.

24 67. The decisions of the City upon the matters alleged herein have no foundation in fact or  
25 anywhere in the record; have denied Petitioner due process and the right to actual consideration of  
26 the facts and evidence; and have worked a miscarriage of justice that renders the decisions of the  
27 City void and unenforceable.

28 68. Respondent’ actions were not supported by substantial evidence in the record, nor did

1 Respondent make findings of fact to support the conclusions reached. Specifically, but without  
2 limitation, there was no substantial evidence in the record to support the conclusion by respondent  
3 City that Simplicity Village was a “Temporary Emergency Facility”, that it could proceed solely  
4 under the jurisdiction of a local ordinance standing apart from State and Federal laws, that it is a  
5 temporary use, that it is supported by the Shelter Crisis Declaration without that statute being  
6 expressly invoked, that it was subject to Appendix N/X in the absence of suspension of the  
7 California Building Codes under the terms if Gov. Code §8698 et seq., that it was similar and  
8 equivalent to other allowed listed uses in the ML zone, that it was consistent with the goals and  
9 objectives of the General Plan, and there is no evidence in the record that justifies Simplicity Village  
10 proceeding in violation of the mandated duties imposed by the Building Codes, or that the OPDI was  
11 supported by true and correct findings based on facts and evidence in the record.

12 69. Petitioner has exhausted all available administrative remedies available to Petitioner and  
13 have no other plain, speedy or adequate remedy at law, other than the relief sought by this Petition  
14 and Complaint.

15 70. Petitioner herein requests an immediate stay of the project known as Simplicity Village,  
16 and that no building or grading permit be issued, nor any work performed to advance the  
17 construction of Simplicity Village on and at the Real Property.

18 WHEREFORE, Petitioners prays judgment as hereinafter set forth.

19  
20 **THIRD CAUSE OF ACTION**

21 (Declaratory and Injunctive Relief; CCP §1060)

22 71. Petitioner incorporates by reference each of the allegations set forth in paragraphs 1-70 of  
23 this Petition as if set forth fully herein.

24 72. A dispute and public controversy exists between Plaintiff and Defendants as to the legal  
25 duties and obligations of the City under State law and the Chico Municipal Code as hereinbefore  
26 alleged. Plaintiff contends that the State laws and the Chico Municipal Code prohibit the approval of  
27 Simplicity Village as presented on these facts and the law. Defendant City, however, contends that  
28 it’s interpretation of these laws and the facts supports approval of Simplicity Village.

73. A court determination is required to settle and resolve the present dispute and controversy that exists between these parties. No form of monetary relief is adequate to address these issues. Plaintiff has performed all conditions precedent to obtain equitable relief by way of a declaratory judgment of the relative rights and duties of the parties under the law and the controversy described herein, including injunctive relief required to enforce the rights of Plaintiff and the duties of Defendant under the law.

74. Plaintiff and the public will be irreparably harmed if Defendants and each of them are not enjoined during the pendency of this action from constructing and developing Simplicity Village.

WHEREFORE, Petitioner prays judgment as hereinafter set forth.

#### FOURTH CAUSE OF ACTION

(Violation of the California Environmental Quality Act; Pub. R. §21000 et seq.)

75. Petitioner incorporates by reference each of the allegations set forth in paragraphs 1-71 of this Petition as if set forth fully herein.

76. Public Resources Code §21080 applies the requirements of the California Environmental Quality Act (CEQA) to “discretionary projects proposed to be carried out or approved by public agencies.” The City of Chico and its duly appointed officers exercised and applied their discretion in the approval given to Simplicity Village.

77. Under the CEQA “Guidelines” found in Title 14, Div. 6, Chapter 3 “Guidelines For Implementation Of the California Environmental quality Act” at §15378, the term “project” means “the whole of an action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The Simplicity Village development was issued an approval for entitlement to proceed by the City through the Director’s explicit approval given in OPDI No. 19-01. In addition, the City subsidized the Simplicity Village development by waiving all development fees associated with the project. And the OPDI No. 19-01 was itself a form of zoning approval affecting both the specific property and as potential precedent for zoning decisions throughout the City on any similar projects. Under Guidelines §15378(a) the Simplicity Village approval was a “project” requiring environmental

1 scrutiny under CEQA.

2 78. Further, under CMC §19.16.060 of the Chico Environmental Review Guidelines, and as  
3 indicated n Table 4-8 for the ML Zone under procedures required for a zoning clearance, even a  
4 theoretical use by right requires an “environmental assessment” by the Director so that it obtains  
5 CEQA review.

6 79. In the present matter there was no environmental assessment or any CEQA review of any  
7 kind given on the OPDI No. 19-01. This in itself is a violation of CEQA that requires reversal of the  
8 decision on the OPDI for review and an environmental assessment and further action under CEQA.

9 80. The substantive decision of the OPDI No. 19-01 was based on the alleged applicability of  
10 the City’s Declaration of Shelter Crisis to the Simplicity Village project. As hereinbefore alleged,  
11 Petitioner disputes that the Simplicity Village project qualifies for consideration under the Shelter  
12 Crisis Declaration because the project did not meet the foundational requirements of a “Public  
13 Facility” under Gov. Code §8698 & §8698.1, nor was the project on “land leased or owned by a  
14 political subdivision”(§8698(e)), nor did the City make a finding that the substandard construction of  
15 sleeping cabins proposed for Simplicity Village was necessary because “strict compliance would in  
16 any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.” (Gov. Code  
17 §8698.1(b).) The Shelter Crisis declaration cannot be deemed applicable to the Simplicity Village  
18 project either substantively or for purposes of determining in any way the applicability or potential  
19 extent of CEQA review. Simplicity Village has no statutory shield from environmental review as a  
20 crisis mitigation measure.

21 81. Only after the Planning Commission and City Council denied Petitioner’s appeal of the  
22 approval of Simplicity City did the City assert in its resolution denying the appeal that this  
23 development project is “exempt” from CEQA review as an “emergency” mitigation measure under  
24 Guidelines §15269(c). The City’s application of the “exemption” (in addition to being untimely)  
25 was inaccurate on two grounds. (1) The failure of Simplicity Village to meet the requirements for  
26 the Shelter Crisis declaration deprives of any characterization or qualification for coverage under the  
27 Shelter Crisis laws. (2) The term “emergency” has an explicit definition under CEQA quite different  
28 from the general conditions for a shelter crisis. Guidelines §14 CCR 15359 define an “emergency”

1 as follows:

2 "Emergency" means a sudden, unexpected occurrence, involving a clear and  
3 imminent danger, demanding immediate action to prevent or mitigate loss of, or  
4 damage to life, health, property, or essential public services. Emergency includes  
5 such occurrences as fire, flood, earthquake, or other soil or geologic movements, as  
6 well as such occurrences as riot, accident, or sabotage.

7 Whereas, per Gov. Code §8698 (d), a "shelter crisis" is the "existence of a situation in which a  
8 significant number of persons are without the ability to obtain shelter, resulting in a threat to their  
9 health and safety." The distinction is the immediacy, imminent danger and exigency of an  
10 "emergency" under CEQA required to qualify for exemption. In contrast, the housing shortage  
11 coupled with poverty, potential substance abuse, and potential mental health issues are the slow  
12 moving even if admittedly dire circumstances behind the "shelter crisis." CEQA demands that if  
13 there is time to do so, the importance and priority of protecting the environment requires that CEQA  
14 review be carried out. In this matter there is not a CEQ "emergency" that provides an exemption to  
15 environmental review for Simplicity Village.

16 82. The scope and magnitude of Simplicity Village clearly poses a "significant impact" on the  
17 environment that necessitates an environmental impact report. The record reflecting a \$700,000+  
18 development project, with high density residential concentration, intensive social services activities,  
19 in a Zone that is not compatible with the proposed use, over a span of up to 18 years, demonstrates  
20 significant impacts that warrant an EIR.

21 83. Irreparable harm will be suffered by the environment, Petitioner, and the public if the  
22 project is not enjoined pending a final determination in this proceeding and ultimately the  
23 preparation and completion of an EIR.

24 84. Respondents/Defendants abused their discretion and violated CEQA in approving the  
25 Simplicity Village project without environmental review, such that mandamus and related injunctive  
26 and/or equitable relief is appropriate under CCP §1085 and Public Resources Code §21168.

27 85. Petitioner has complied with all conditions precedent required for filing and maintaining  
28 this action.

86. WHEREFORE, Petitioner prays judgment as hereinafter set forth.

1 **PRAYER FOR RELIEF**

2 Petitioner respectfully prays judgment against Respondents/Defendants, as follows:

3 (1) For issuance of a writ of mandate, for injunctive relief, and/or other extraordinary relief  
4 directing and commanding the Respondent to vacate and set aside their invalid denial of Petitioner's  
5 appeals;

6 (2) That the court adjudicate, determine and declare that the Respondent's application and  
7 interpretation of the local and state laws is invalid, arbitrary, and does not serve a legitimate public  
8 purpose as applied to this particular project;

9 (3) For an award of general damages, special damages, and consequential damages against  
10 Petitioner, for the damages suffered by Petitioner as a result of Respondent's unlawful conduct  
11 pursuant to Civ. Proc. Code, § 1095;

12 (4) For a writ of mandate setting aside the decisions, approvals and determinations by  
13 Respondents avoiding environmental review, and further ordering and directing Respondents to  
14 carry out CEQA review through preparation of an environmental impact report;

15 (5) For recovery of Petitioner's costs of suit and litigation expenses, including reasonable  
16 attorney's fees, expert witness fees, and other litigation costs incurred herein, in an amount according  
17 to proof; and

18 (6) For such other and further relief as the court may deem just and appropriate.  
19

20 Dated: October 31, 2019

MCNEILL LAW OFFICES  
WALTER P. MCNEILL  
ATTORNEYS FOR PETITIONERS/PLAINTIFFS

21  
22  
23  
24 By:



25 WALTER P. MCNEILL  
26 ATTORNEY FOR PETITIONERS  
27  
28

1  
2 **VERIFICATION**  
3

4 I, Frank Solinsky, am an owner of real property in the City of Chico, and Petitioner in this  
5 action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint, and know its  
6 contents. The facts alleged in the above Petition are within my own knowledge and I know these  
7 facts to be true, except as to matters alleged therein on information and belief.

8 I declare, under penalty of perjury under the laws of the State of California that the above is  
9 true and correct and that this declaration is executed on October 31, 2019 in Chico, California.

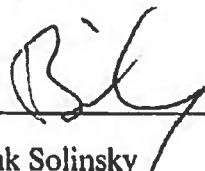
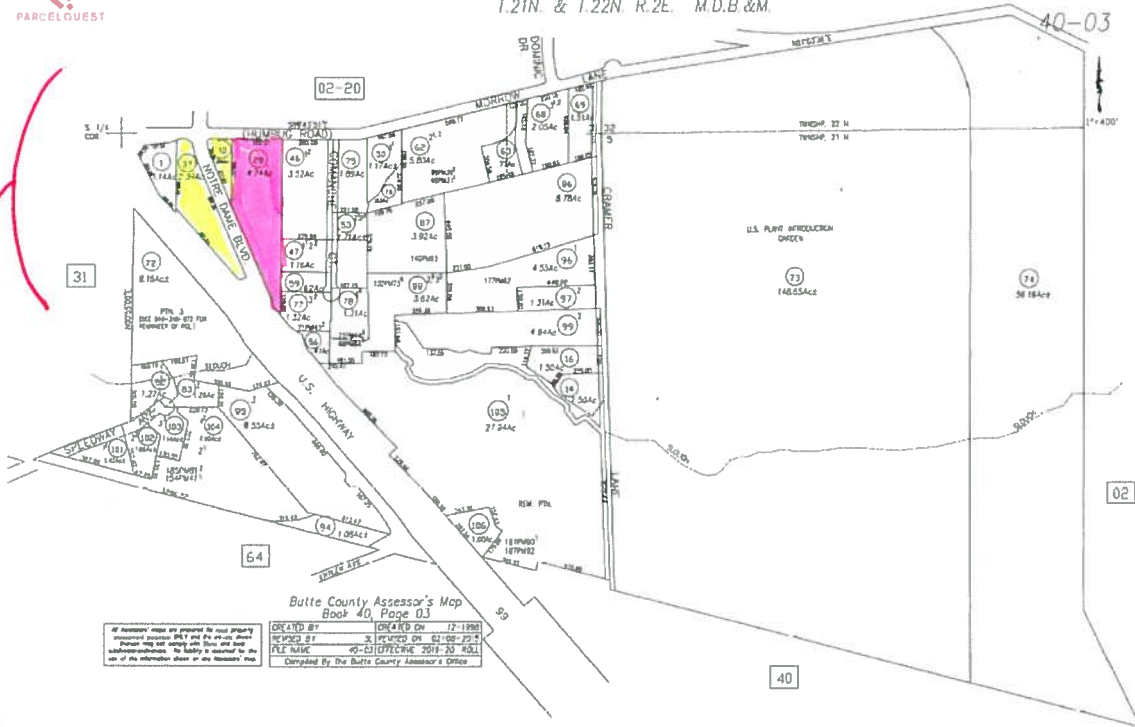
10  
11   
12 \_\_\_\_\_  
13 Frank Solinsky  
14 Petitioner  
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Exhibit “A”

T.21N. & T.22N. R.2E. M.D.B & M.



02-20

S. 1/4  
COR.

31

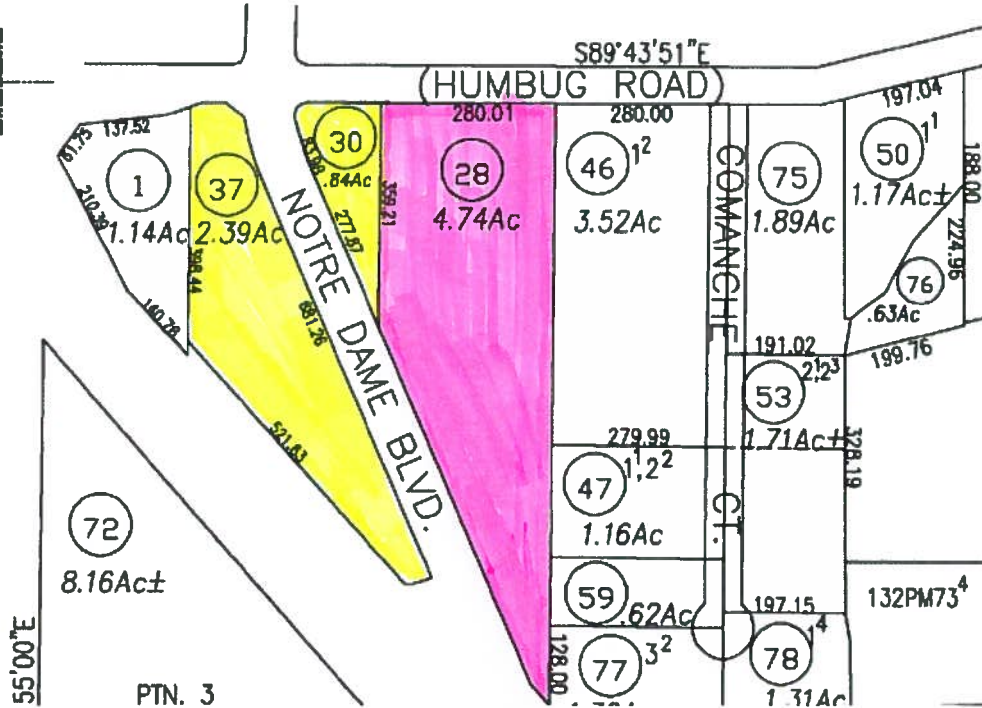


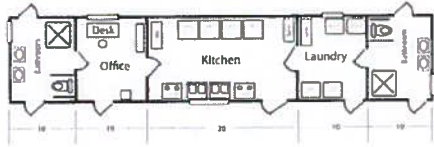
Exhibit “B”



Exhibit “C”

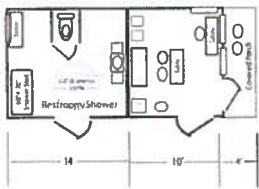
Portables: 12' x 60'  
bathrooms, laundry,  
kitchen

2 Toilets, 6 Sinks, 2 Showers  
2 Clothes Washers each



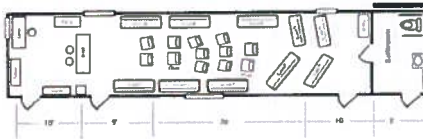
Gate Monitor House  
ADA Restroom and shower  
permanent building

1 Toilet, 1 Sink, 1 Shower



Multi-Purpose Community Bldg

1 Toilet, 1 Sink



Covered Outdoor Dining Area

2 Sinks

4 Toilets and 4 sinks in the 4 ADA cabins

8 Tall Hose Bibs



# Simplicity Village

## Site Model 12 c

on 2.6 acres of Justine & Ted Ball's property

on Notre Dame Blvd., Chico CA

APN 040-030-028

Illuminated Entry Directory

Fire Hydrant

Gardens 4' x 8'

33 Tiny Homes 8' x 12' & 8' x 16'

Portables: 12' x 60'  
bathrooms, laundry,  
kitchen

Dumpster Enclosure

23 Parking Spaces 8' x 20'

Gate Monitor House  
ADA Restroom and shower  
permanent building 12' x 24'  
with 800 amp, 120/208 v, 3 ph, 4 w  
service entrance. Panel on northwest  
corner of building

12' x 32' Workshop

Meeting Rooms

Bicycle Racks

Covered outdoor dining 8' x 60'  
and food prep area

Storage Units 8' x 20' 8' x 8'  
Shipping Containers

Multi-Purpose  
Community Building 12' x 57'

DG Path of Travel

Road Base Driveway  
w/min. interior radius of 28'

Proposed  
Lease property  
Line 255' x 500'  
and fence line

Simplicity Village: Site Model 10-11

Exhibit “D”

Chico Housing Action Team

Chico Housing Action Team  
PO Box 4868  
Chico, CA 95927

July 2, 2018

Ted and Justine Ball  
7064 Firefly Green Lane  
Roseville, CA 95747

Re: Binding Letter of Intent

Lease of real property, a portion of A.P. No. 040-030-028 on  
Notre Dame Boulevard, Chico, California

Dear Mr. and Mrs. Ball:

This letter ("Letter of Intent") constitutes an offer from Chico Housing Action Team ("CHAT" or "Lessee") to lease from The Ball Family Living Trust ("Lessor") a portion of Butte County Assessor's Parcel No. 040-030-028, located on Notre Dame Boulevard in Chico, California ("the Ball Parcel"). The portion being leased ("the Property") consists of approximately 2.5 acres as more particularly shown in the attached Exhibit A, incorporated by reference. The portion to be leased is bounded by a dividing line 20 feet north of the existing fence that presently cuts across the Ball Parcel, and runs parallel to that fence line, except that 50 feet from the western edge of the property, the dividing line angles toward the south and west to the edge of the Ball Parcel, crossing the existing fence line 40 feet from the western edge of that fence. This is to allow ready access for the Lessor from Notre Dame Avenue to the northern portion of the Ball Parcel, which is not being leased to CHAT, where the stables and creek (slough) are located. The portion to be leased to CHAT includes all of the Ball Parcel south of this above described "dividing line", extending to the southernmost tip of the Property.

The use of the Property will be for the development of a transitional housing "village", which is to include small sleeping cabins or mini-houses, a community building with shared kitchen, bathrooms, laundry and meeting facilities, classrooms and vocational training facilities, and other appurtenant structures (the "Project"). Some or all of the buildings may be designed to be movable.

This offer supersedes any other written or oral offers or communications.

## 1. Lease and Terms

The lease terms for the Property shall be as follows:

- (a) Consideration in the amount of \$3,000.00 is due within 10 days of Lessor's execution of this Letter of Intent, and such consideration shall be applied to the rent if a lease is executed by the parties;
- (b) Initial lease term shall be for two years, and Lessee shall have 2 options to extend the lease for 2 years each;
- (c) Rent shall be payable monthly for the first twelve months in the amount of \$1,200.00 per month and \$1,700.00 per month thereafter for the balance of the initial two year term; after the first two years, the rent will increase by 5% at the start of each new year for the remainder of the lease term and any extensions. *North California*
- (d) Property taxes shall be paid by Lessor. In the event that property taxes are increased as result of any improvements made by Lessee during the term of the lease, such increased amounts shall be paid by Lessee upon demand by Lessor; such demand to be sent by certified mail and email to the Lessee, with appropriate documentation showing the property tax increases; *trub*
- (e) Lessee shall obtain liability insurance for the Property/Project with Lessor as additional named insured, and Lessee shall provide hard and electronic copies of insurance documents regarding Project and Property to Lessor, showing Lessor as additional named insured.
- (f) Lessee shall have a first right of refusal to purchase the Property in the event that Lessor desires to sell the Property. In the event that a third party purchases the Property, CHAT shall be reimbursed for the amounts spent on capital improvements, such as bringing city sewer, gas, water, and/or electric hook ups to the property. Any such expenditures are to be reported promptly to Lessor, and hard and electronic copies shall be provided by the Lessee showing costs incurred for all such infrastructure/capital improvements. These capital improvements shall be made in consultation with the Lessor, and done in such as way as to benefit both parties, to the extent feasible, with Lessor bearing any additional cost incurred to make the utility accesses convenient to Lessor. The right to reimbursement for capital improvements shall be evidenced by a note payable to CHAT upon close of escrow by Lessor with no interest and upon such other terms as may be amenable to the parties.
- (g) No portion of the leased Project shall be assigned or sublet to a third party without the express written consent of the Lessor other than as part of Lessee's intended use of the Project for Lessee's (CHAT's) transitional housing project and related services and programs for the residents.

(h) Lessor reserves full use and control of the existing "stables" on the property, which are expressly excluded from the leased area.

(i) Upon termination of the lease, CHAT retains the right to remove any movable structures, such as "tiny houses" and modular structures, from the Property within 90 days of the expiration of the lease, at CHAT's own expense. ~~CHAT is not required to remove its structures from the Property. Anything which remains on the Property after 90 days is deemed abandoned and may be disposed of by the Lessor as Lessor may deem appropriate.~~

(j) The lease shall contain other standard and common provisions for a lease of this nature.

## 2. Failure to Obtain Entitlements

If Lessee fails to receive the required entitlements and approvals from the City of Chico or other regulatory bodies or agencies within 6 month from the mutual execution of this Letter of Intent, and no lease between the parties is executed pursuant to section 3 below, the consideration of \$3,000.00 shall be retained by Lessor.

## 3. Lease Agreement

Within thirty days after Lessee has received the necessary entitlements and approvals from the City of Chico and any other governing bodies or regulatory agencies, the parties shall execute a formal lease agreement for the Property ("Agreement") that shall contain the terms and conditions in this letter:

## 4. Other Terms and Conditions

(a) No later than five days after Lessor's execution of this Letter of Intent, Lessee shall have the right to physically inspect the Property and investigate the public records and other documents concerning construction, financing, environmental issues, flood risk, and title to the Property to determine, in Lessee's absolute discretion, whether Lessee desires to lease the Property in its existing condition, subject to Paragraph 4(c) of this Letter of Intent.

(b) Lessor agrees to provide Lessee with reasonable access to the Property to make the inspections under Paragraph 4(a). If Lessee is dissatisfied for any reason with the Property at this stage, Lessee shall immediately notify Lessor in writing of this dissatisfaction and shall terminate this Letter of Intent, **and the deposit shall be refunded.**

(c) Lessor agrees to reasonably cooperate with Lessee in connection with applications to the City of Chico or any County or State agency regarding development applications

for the Project, including any required applications for zoning changes, use permits, planned unit development applications, subdivision map applications, building permits, environmental reviews, or any other approvals, waivers, investigations, or other government action that may be required to move forward with the Project, or on any objection to a tax reassessment that Lessee may wish to file in the future. The Lessor is not required to incur any financial expense in regard to any of these matters, but only to help as needed by providing requested information, signing any required applications, declarations, or appeals, allowing special improvements that may be required by a particular agency, and appearing at a hearing or hearings, if this should be required by an agency.

(d) The cost of any lot split shall be paid by the Lessor.

#### 5. Commission

The parties warrant and represent that no broker is entitled to any sales commission arising out of the Letter of Intent or final lease.

#### 6. Notices

Any notices to be sent pursuant to this Letter of Intent shall be sent by certified mail, return receipt requested, to the address following each party's signature below. Any notice shall be deemed received three (3) days following deposit in the United States Mail, properly addressed and in accordance with this Paragraph. Simultaneously with such written notice, email notice shall also be sent, to any email addresses provided following the signature line of the party to be noticed.

#### 7. Governing Law

This Letter of Intent shall be governed by California law.

This Letter of Intent constitutes Lessee's offer to lease the Project on Lessee's terms and conditions, and once executed by Lessor, is intended to be a binding statement of the terms of the lease. This offer shall be valid until \_\_\_\_\_, 2018. If not accepted by this date, this offer shall automatically terminate.

LESSEE:

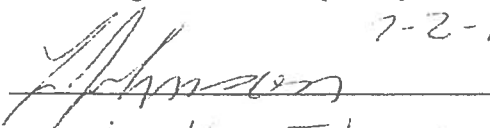
Address:

Chico Housing Action Team (CHAT)

PO Box 4868

Chico, CA 95927

By:

  
Leslie Johnson  
Secretary for CHAT 4

Leslie Johnson, Secretary

Email:

Email:

Email:

THE UNDERSIGNED ACCEPTS THE STATED OFFER AND AGREES TO LEASE THE  
PROJECT TO LESSEE ON THE TERMS AND CONDITIONS IN THIS LETTER OF INTENT:

LESSOR:

Address:

Ball Family Living Trust

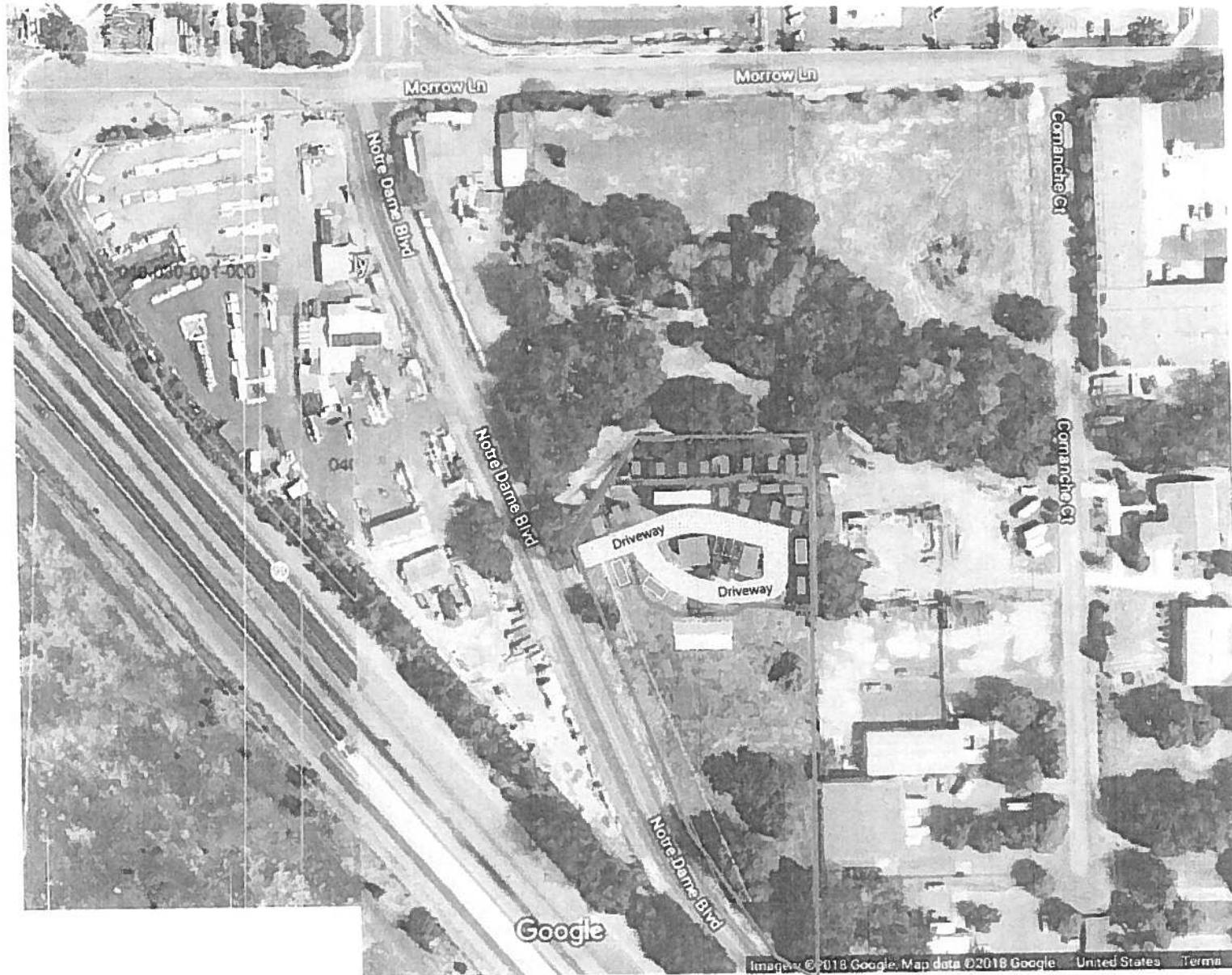
By Leslie Johnson

7064 Highway 2000 S.W.  
Portland, OR 97201

Print Name: Leslie Johnson

Position: President

Email: lejohn@ballfamily.com



## Simplicity Village Site Model 7

on Justine & Ted Ball's property  
on Notre Dame Blvd., Chico CA  
APN 040-030-028

- Gardens
- 33 Tiny Homes
- Portables:  
bathrooms, laundry,  
kitchen
- Meeting Room  
and shop
- Gate Monitor House
- Covered outdoor dining  
and food prep area
- Storage Units
- Classroom
- Proposed  
Lease property  
line

Simplicity Village Site Model 6 .ai

Exhibit “E”



## City Council Agenda Report

Meeting Date: 10/02/18

TO: Honorable Mayor and City Council

FROM: Vincent C. Ewing, City Attorney

RE: Declaration of Shelter Crisis and Homeless Emergency Aid Program ("HEAP")

### REPORT IN BRIEF:

The Homeless Emergency Aid Program (HEAP) makes \$500 million in one-time funding available to Continuums of Care (CoCs) and large cities (population over 330,000) in the State of California. This funding is intended to provide immediate emergency assistance to those jurisdictions that are experiencing homelessness or at risk of homelessness. The Butte Countywide Homeless Continuum of Care ("local CoC") is eligible for 4.9 million in HEAP funding.

Pursuant to Government Code Sections 8698 *et seq.*, the City may declare a shelter crisis via resolution of the City Council upon a finding that a significant number of persons within the City are without the ability to obtain shelter, resulting in a threat to their health and safety. Said declaration of shelter crisis is being considered by the City Council since the State requires a shelter crisis declaration in order for local jurisdictions, and service providers with those jurisdictions, to be eligible for HEAP funds through their local CoC.

### RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. XX, which declares a Shelter Crisis in the City of Chico. (Exhibit "B").

### FISCAL IMPACT:

The fiscal impact associated with this action, includes the staff time incurred in preparing this report and if approved the staff time associated with implementation of HEAP funds.

### DISCUSSION:

#### *Homeless Emergency Aid Program (HEAP) Funding*

In June 2018, Governor Brown signed Senate Bill ("SB") 850 and related budget trailer bills into law that launched the Homeless Emergency Aid Program (HEAP) and made \$500 million in one-time funding available to Continuums of Care (CoCs) and large cities (population over 330,000). The purpose

of this one-time funding is to provide immediate emergency assistance to those jurisdictions that are experiencing homelessness or at risk of homelessness.

CoCs are regional or local planning bodies that coordinate housing and services funding for homeless families and individuals. They were first created in 1995 when the U.S. Department of Housing and Urban Development (HUD) began to require communities to submit a single application for homeless assistance grants in order to streamline the funding application process. CoCs develop community plans to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximize self-sufficiency.

The local CoC is identified by the State as the *Chico, Paradise/Butte County Continuum of Care* and is known locally as the *Butte Countywide Homeless Continuum of Care* ("local CoC"). HEAP funding will flow through the local CoC's Administrative Entity, which is the Community Action Agency of Butte County, Inc. (CAA), unless one of the general purpose local governments (Butte County or a City/Town) fulfills the role as Administrative Entity for purposes of HEAP funding. The County has offered to serve as the Administrative Entity for HEAP funds.

Within the incorporated and unincorporated areas of Butte County, the State identified 1,195 individuals out of the local CoC's 2017 Homeless Point in Time Census and Survey Report that meet the State's definition for homeless. Based on that number, the local CoC is eligible for approximately \$4.9 million in HEAP funding, if the CoC meets all State requirements, including at least one local jurisdiction declaring a shelter crisis. The local CoC may then award the funding to local agencies and organizations, including cities and the County, that meet State guidelines.

Eligible uses for HEAP funding include, but are not limited to:

- **Services:** street outreach, health and safety education, criminal justice diversion programs, prevention services, navigation services, and operating support for short-term or comprehensive homeless services.
- **Rental Assistance or Subsidies:** housing vouchers, rapid re-housing programs, and eviction prevention strategies.
- **Capital Improvements:** emergency shelters, transitional housing, drop-in centers, permanent supportive housing, small/tiny houses, improvements to current structures that serve homeless individuals and families, and handwashing stations or public toilet and shower facilities. **Please note** that any capital improvements would require compliance with applicable building, zoning, and health and safety codes.

At least 5% of HEAP funds must be used to establish or expand services meeting the needs of homeless youth or youth at risk of homelessness.

#### ***Shelter Crisis Declaration***

Pursuant to Government Code section 8698 *et seq.*, the City may declare a shelter crisis upon a finding that a significant number of persons within the City are without the ability to obtain shelter, resulting in a threat to their health and safety.

The California Homeless Coordinating and Financing Council identified 433 unsheltered homeless persons, from the 2017 Homeless Point in Time Census and Survey Report, located in the City. The number of homeless individuals located in the City is significant, and the health and safety of unsheltered persons in the City is threatened by lack of shelter.

A declaration of a shelter crisis provides the City with the following options, but does not require any of them to be utilized:

- Per Government Code section 8698(c), any vacant or underutilized facility or property currently owned, leased, operated, or maintained by the City, through money derived by taxation or assessment, may be designated a *public facility* ("City Designated Facility") for purposes of emergency sheltering during the declaration.
- Per Government Code section 8698.1(b), the City may suspend the provision of any state or local law or regulations prescribing standards of housing, health, or safety to the extent that strict compliance would prevent, hinder, or delay the provision of emergency shelter(s) in or on City Designated Facilities. Federal laws and regulations will still apply.
- Per Government Code section 8698.1(b), the City may enact, in place of the housing standards referenced above, health and safety standards effective only during the declaration, to ensure minimal public health and safety.
- Per Government Code section 8698.2(b), the City may allow persons unable to obtain housing to occupy, from time to time, City Designated Facilities during the duration of the declaration.

Per Government Code section 8698.1(a), the City is immune from liability for ordinary negligence in the provision of emergency housing to unsheltered persons during the declaration, limited to conditions, acts, or omissions directly related to, and which would not occur but for, the provision of emergency housing.

In addition to the above, the State requires a shelter crisis declaration in order for local jurisdictions, and service providers with those jurisdictions, to be eligible for \$4.9 million in HEAP funds through the local CoC. **Exhibit A**, attached, illustrates the options related to shelter crisis declarations and HEAP funding, depending on whether the City declares a shelter crisis. The Board of Supervisors of Butte County declared a shelter crisis in the County via resolution on September 25, 2018 .

The proposed resolution declaring a shelter crisis would allow the following:

- The City to apply to the CoC for funding to provide *services* in jurisdiction;
- The City to apply to the CoC for funding for *capital improvements* and *rental subsidies* within jurisdiction;
- The City to authorize use of appropriate City Designated Facilities for sheltering purposes in the City.

### ***Use Of City Designated Facilities***

If the City Council chooses to declare a shelter crisis, it does not automatically authorize the use of any specific property or facility for use as emergency shelter, it only allows the City Council the option to do so.

If the City Council would like to consider use of any particular property, staff recommends that the City Council direct the City Manager, or designee, to request proposals from interested organizations providing homeless shelter services, with the City Manager bringing any viable proposals to the City Council for consideration. If the City Council approves a proposal, it will also authorize the appropriate facility to be a City Designated Facility and direct the City Manager to enter into an agreement with the organization to operate an emergency shelter at the City Facility no longer than the duration of the crisis.

### ***Options Regarding A Shelter Crisis Declaration***

#### **1. Adopt the resolution declaring a shelter crisis.**

If a shelter crisis declaration is adopted by the City Council, the HEAP funding becomes available for:

- The City to provide HEAP-funded *services* in the City (i.e., mental health services, public health services, employment and social services, substance abuse services);
- The City and service providers to use HEAP funding for *capital improvements* and *rental subsidies* in the City (*capital improvements* must meet all applicable building, zoning, and health and safety laws and regulations);

In addition, the shelter crisis declaration allows the City Council to designate vacant or underutilized City properties and facilities for temporary sheltering purposes.

#### **2. Do not adopt the resolution declaring a shelter crisis.**

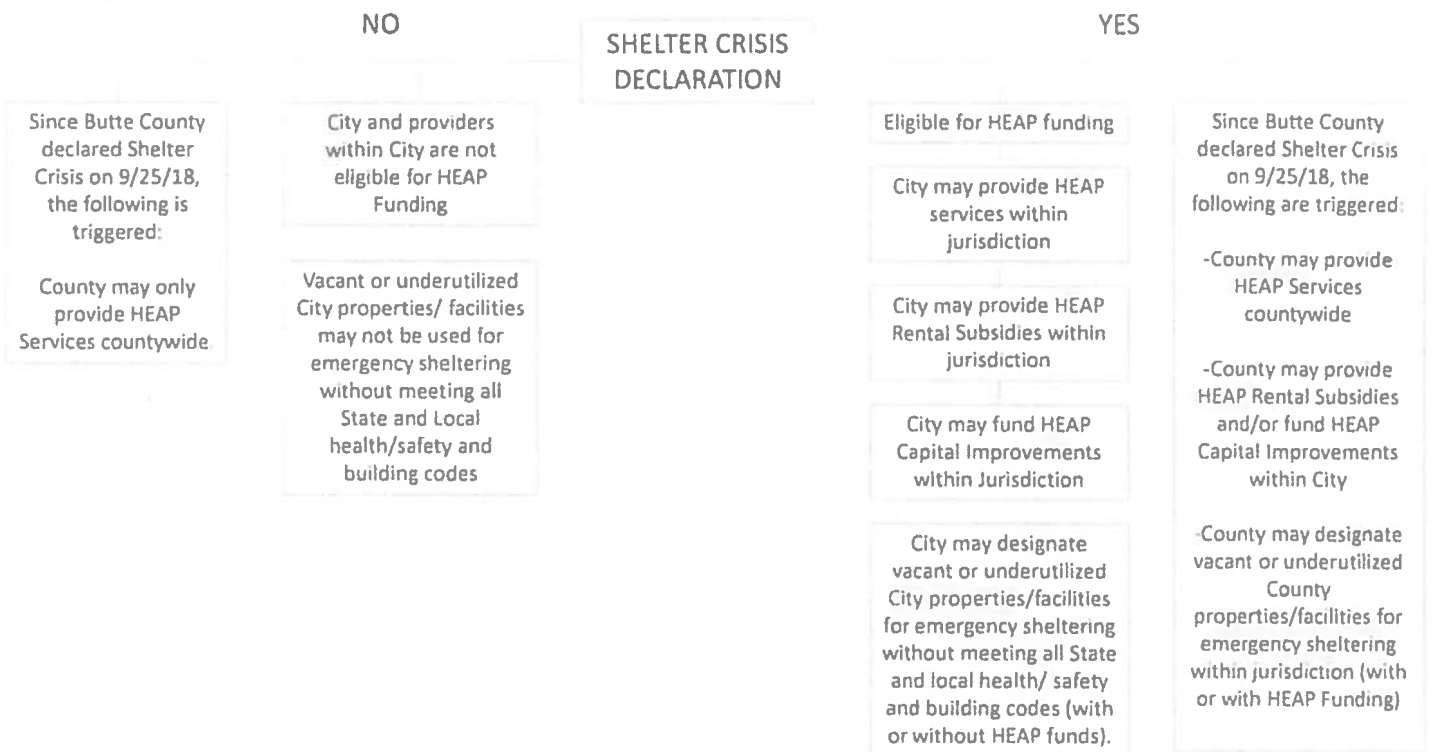
If a shelter crisis declaration is not adopted by the City Council, HEAP funding will not be available to the City for provision of additional citywide *services*, or to fund *capital improvements* or providing *rental subsidies* in the City.

In addition, the City Council will not have the ability to designate vacant or underutilized City properties or facilities in any jurisdiction for use as emergency sheltering.

### **ATTACHMENTS:**

Exhibit "A" – Shelter Crisis Declaration and Heap Funding Chart  
Exhibit "B" - Resolution

Exhibit "A" – OPTIONS REGARDING A  
SHELTER CRISIS DECLARATION





## City Council Agenda Report

Meeting Date: 10/02/18

TO: Honorable Mayor and City Council

FROM: Vincent C. Ewing, City Attorney

RE: Declaration of Shelter Crisis and Homeless Emergency Aid Program ("HEAP")

---

### REPORT IN BRIEF:

The Homeless Emergency Aid Program (HEAP) makes \$500 million in one-time funding available to Continuums of Care (CoCs) and large cities (population over 330,000) in the State of California. This funding is intended to provide immediate emergency assistance to those jurisdictions that are experiencing homelessness or at risk of homelessness. The Butte Countywide Homeless Continuum of Care ("local CoC") is eligible for 4.9 million in HEAP funding.

Pursuant to Government Code Sections 8698 *et seq.*, the City may declare a shelter crisis via resolution of the City Council upon a finding that a significant number of persons within the City are without the ability to obtain shelter, resulting in a threat to their health and safety. Said declaration of shelter crisis is being considered by the City Council since the State requires a shelter crisis declaration in order for local jurisdictions, and service providers with those jurisdictions, to be eligible for HEAP funds through their local CoC.

### RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. XX, which declares a Shelter Crisis in the City of Chico. (Exhibit "B").

### FISCAL IMPACT:

The fiscal impact associated with this action, includes the staff time incurred in preparing this report and if approved the staff time associated with implementation of HEAP funds.

### DISCUSSION:

#### *Homeless Emergency Aid Program (HEAP) Funding*

In June 2018, Governor Brown signed Senate Bill ("SB") 850 and related budget trailer bills into law that launched the Homeless Emergency Aid Program (HEAP) and made \$500 million in one-time funding available to Continuums of Care (CoCs) and large cities (population over 330,000). The purpose

of this one-time funding is to provide immediate emergency assistance to those jurisdictions that are experiencing homelessness or at risk of homelessness.

CoCs are regional or local planning bodies that coordinate housing and services funding for homeless families and individuals. They were first created in 1995 when the U.S. Department of Housing and Urban Development (HUD) began to require communities to submit a single application for homeless assistance grants in order to streamline the funding application process. CoCs develop community plans to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximize self-sufficiency.

The local CoC is identified by the State as the *Chico, Paradise/Butte County Continuum of Care* and is known locally as the *Butte Countywide Homeless Continuum of Care* ("local CoC"). HEAP funding will flow through the local CoC's Administrative Entity, which is the Community Action Agency of Butte County, Inc. (CAA), unless one of the general purpose local governments (Butte County or a City/Town) fulfills the role as Administrative Entity for purposes of HEAP funding. The County has offered to serve as the Administrative Entity for HEAP funds.

Within the incorporated and unincorporated areas of Butte County, the State identified 1,195 individuals out of the local CoC's 2017 Homeless Point in Time Census and Survey Report that meet the State's definition for homeless. Based on that number, the local CoC is eligible for approximately \$4.9 million in HEAP funding, if the CoC meets all State requirements, including at least one local jurisdiction declaring a shelter crisis. The local CoC may then award the funding to local agencies and organizations, including cities and the County, that meet State guidelines.

Eligible uses for HEAP funding include, but are not limited to:

- **Services:** street outreach, health and safety education, criminal justice diversion programs, prevention services, navigation services, and operating support for short-term or comprehensive homeless services.
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At least 5% of HEAP funds must be used to establish or expand services meeting the needs of homeless youth or youth at risk of homelessness.

### ***Shelter Crisis Declaration***

Pursuant to Government Code section 8698 *et seq.*, the City may declare a shelter crisis upon a finding that a significant number of persons within the City are without the ability to obtain shelter, resulting in a threat to their health and safety.

### ***Use Of City Designated Facilities***

If the City Council chooses to declare a shelter crisis, it does not automatically authorize the use of any specific property or facility for use as emergency shelter, it only allows the City Council the option to do so.

If the City Council would like to consider use of any particular property, staff recommends that the City Council direct the City Manager, or designee, to request proposals from interested organizations providing homeless shelter services, with the City Manager bringing any viable proposals to the City Council for consideration. If the City Council approves a proposal, it will also authorize the appropriate facility to be a City Designated Facility and direct the City Manager to enter into an agreement with the organization to operate an emergency shelter at the City Facility no longer than the duration of the crisis.

### ***Options Regarding A Shelter Crisis Declaration***

#### **1. Adopt the resolution declaring a shelter crisis.**

If a shelter crisis declaration is adopted by the City Council, the HEAP funding becomes available for:

- The City to provide HEAP-funded *services* in the City (i.e., mental health services, public health services, employment and social services, substance abuse services);
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In addition, the shelter crisis declaration allows the City Council to designate vacant or underutilized City properties and facilities for temporary sheltering purposes.

#### **2. Do not adopt the resolution declaring a shelter crisis.**

If a shelter crisis declaration is not adopted by the City Council, HEAP funding will not be available to the City for provision of additional citywide *services*, or to fund *capital improvements* or providing *rental subsidies* in the City.

In addition, the City Council will not have the ability to designate vacant or underutilized City properties or facilities in any jurisdiction for use as emergency sheltering.

### **ATTACHMENTS:**

Exhibit "A" – Shelter Crisis Declaration and Heap Funding Chart  
Exhibit "B" - Resolution

The California Homeless Coordinating and Financing Council identified 433 unsheltered homeless persons, from the 2017 Homeless Point in Time Census and Survey Report, located in the City. The number of homeless individuals located in the City is significant, and the health and safety of unsheltered persons in the City is threatened by lack of shelter.

A declaration of a shelter crisis provides the City with the following options, but does not require any of them to be utilized:

- Per Government Code section 8698(c), any vacant or underutilized facility or property currently owned, leased, operated, or maintained by the City, through money derived by taxation or assessment, may be designated a *public facility* ("City Designated Facility") for purposes of emergency sheltering during the declaration.
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- Per Government Code section 8698.2(b), the City may allow persons unable to obtain housing to occupy, from time to time, City Designated Facilities during the duration of the declaration.

Per Government Code section 8698.1(a), the City is immune from liability for ordinary negligence in the provision of emergency housing to unsheltered persons during the declaration, limited to conditions, acts, or omissions directly related to, and which would not occur but for, the provision of emergency housing.

In addition to the above, the State requires a shelter crisis declaration in order for local jurisdictions, and service providers with those jurisdictions, to be eligible for \$4.9 million in HEAP funds through the local CoC. **Exhibit A**, attached, illustrates the options related to shelter crisis declarations and HEAP funding, depending on whether the City declares a shelter crisis. The Board of Supervisors of Butte County declared a shelter crisis in the County via resolution on September 25, 2018 .

The proposed resolution declaring a shelter crisis would allow the following:

- The City to apply to the CoC for funding to provide *services* in jurisdiction;
- The City to apply to the CoC for funding for *capital improvements* and *rental subsidies* within jurisdiction;
- The City to authorize use of appropriate City Designated Facilities for sheltering purposes in the City.

Exhibit "A" – OPTIONS REGARDING A  
SHELTER CRISIS DECLARATION

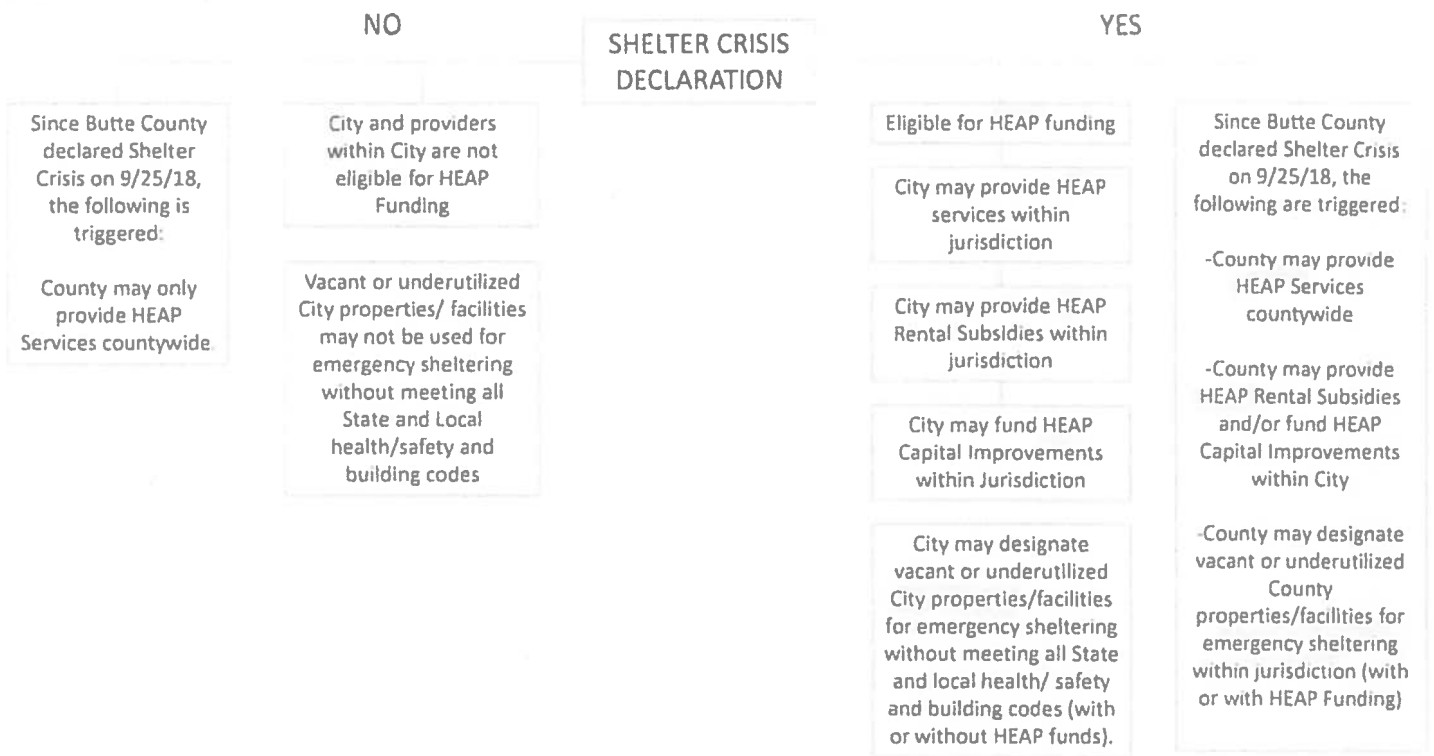


Exhibit “F”

1 RESOLUTION NO. 82-18

2  
3 RESOLUTION OF THE COUNCIL OF THE CITY OF CHICO DECLARING A SHELTER CRISIS  
4 IN THE CITY OF CHICO

5 WHEREAS, California's Governor Edmund G. Brown, Jr. and the members of the California  
6 legislature recognized the urgent and immediate need for funding at the local level to combat  
7 homelessness; and

8 WHEREAS, the Governor and Legislature provided funding to local governments under the  
9 Homeless Emergency Aid Program as part of Senate Bill ("SB") 850 (Housing) and the 2018-19 Budget  
10 Act (Chapter 48, Statutes of 2018); and

11 WHEREAS, the Governor and Legislature require jurisdictions seeking an allocation through the  
12 Homeless Emergency Aid Program to declare a Shelter Crisis pursuant to Government Code Section  
13 8698 *et seq.*; and

14 WHEREAS, the City has participated with the Continuum of Care in the development of a  
15 homelessness plan and undertaken multiple efforts at the local level to combat homelessness; and

16 WHEREAS, Government Code Section 8698 *et seq.* permits a City to declare a shelter crisis  
17 upon a finding that a significant number of persons located with the City are unable to find shelter, and  
18 that their inability to find shelter creates a threat to the health and safety of those persons; and

19 WHEREAS, upon a declaration of a shelter crisis, the City may allow public facilities, which are  
20 defined as vacant or underutilized buildings that the City owns, leases, or otherwise controls, to be  
21 occupied by homeless individuals under conditions provided by other statutes; and

22 WHEREAS, the California Homeless Coordinating and Financing Council identified 433  
23 unsheltered homeless persons, from the 2017 Homeless Point in Time Census and Survey Report,  
24 located in the City; and

25 WHEREAS, the City Council finds that the number of homeless individuals located in the City is  
26 significant, and some homeless individuals are without the ability to obtain shelter; and

27 WHEREAS, the City Council finds that the health and safety of unsheltered person in the City is  
28 threatened by lack of shelter; and

1 WHEREAS, the City affirms its commitment to combatting homelessness and creating or  
2 augmenting a continuum of shelter and service options for those living without shelter in the City.

3 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Chico as follows:

4 1. A shelter crisis pursuant to Government Code Section 8698 *et seq.* exists in the City.

5 2. The City is authorized to participate in the Homeless Emergency Aid Program.

6 3. A "public facility" (referred to hereinafter as "City Designated Facility") is defined per  
7 Government Code Section 8698 (c) and includes, without limitation, vacant or underutilized facilities  
8 and properties which are currently owned, operated, leased, or maintained by the City, or any of its  
9 subordinate agencies through money derived by taxation or assessment.

10 4. For the term of this Resolution, any state or local regulatory statute, regulation, or  
11 ordinance prescribing standards of housing, health, or safety shall be suspended for a City Designated  
12 Facility to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of  
13 the effects of the shelter crisis. The City may enact local health and safety standards to be operative  
14 during the shelter crisis to ensure minimal health and safety risks.

15 5. The use of any City Designated Facility for emergency sheltering must be approved by  
16 the City Council.

17 6. When requested by the City, organizations that provide homeless shelter services within  
18 the boundaries of the City may submit proposals to the City Manager for consideration for the use of  
19 City Designated Facilities in the City. The City Manager may discuss viable proposals and bring viable  
20 proposals to the City Council for consideration. Upon City Council approval and direction to the City  
21 Manager, the City may enter into an agreement with the organization to operate a shelter, pursuant to  
22 Government Code Section 8698 *et seq.* in a City Designated Facility, no longer than the duration of the  
23 crisis.

24 7. Per Government Code section 8698 *et seq.*, the City shall be immune from liability for  
25 ordinary negligence in the provision of emergency housing pursuant to Government Code Section  
26 8698.2, limited to conditions, acts, or omissions directly related to, and which would not occur but for,  
27 the provision of emergency housing.

28 8. This resolution, and shelter crisis declaration, shall expire on June 30, 2021.

1 THE FOREGOING RESOLUTION WAS ADOPTED by the Council of the City of Chico at its

2 meeting held on October 2, 2018, by the following vote:

3 AYES: Coolidge, Ory, Scwab, Stone

4 NOES: Fillmer, Sorensen, Morgan


5 ABSENT: None

6 ABSTAIN: None

7 DISQUALIFIED: None

8

9 ATTEST:

10   
11 Deborah R. Presson, City Clerk

APPROVED AS TO FORM:

  
Vincent C. Ewing, City Attorney\*

12

13

\*Approved pursuant to The Charter of the  
City of Chico §906 (E)

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Exhibit “G”

**From:** Chris Constantin  
**To:** Charles & Sally Withuhn; Andrew Jared  
**Cc:** Bill Kurnizki; Leslie Johnson; Robert Trausch; Alan Mittman; Mark Orme; Tony Lindsey; Brendan Vieg  
**Subject:** RE: CHAT City plan  
**Date:** Tuesday, April 2, 2019 10:20:00 AM

---

Charles,

The shelter crisis supports Brendan's assessment on the allowable use on the property. For the shelter crisis to apply explicitly, we would have to go back down the original path which raised concerns for CHAT related to prevailing wage and it would also require far more legal involvement from the City which could lead to more delay.

I think the current approach we have is a win-win to get SV going. I'm not sure of the circumstances of Yuba County and Andrew can speak to that if necessary, but our City does have a declared shelter crisis. My concern is if CHAT continues to change on the approaches towards getting to the finish line, it will only continue to delay this worthwhile project. My recommendation is to continue down the current path to at least get the project going. Our staff worked on a variety of alternate options after the prevailing wage issue came up, and it was difficult to find a path that complied with code.

*Chris Constantin*

*Assistant City Manager*

Office of the City Manager

City of Chico

411 Main Street

PO Box 3420

Chico, CA 95927

(530) 896-7202 office ~ (530) 895-4825 Fax

[www.chicoca.gov](http://www.chicoca.gov)

*Please consider the environment before printing this email.*

**NOTICE TO RECIPIENT:** This communication and any documents, files or previous email messages attached to it, constitute an electronic communication within the scope of the Electronic Communication Privacy Act, 18 USCA 2510 which is meant only for the intended recipient of the transmission, and may be a communication privileged by law. This communication may contain non-public, confidential, or legally privileged information intended for the sole use of the designated recipient(s). The unlawful interception, use or disclosure of such information is strictly prohibited. If you are not the intended recipient, or have received this communication in error, please notify the sender immediately by reply email or by telephone and delete all copies of this communication, including attachments, without reading, forwarding or saving them electronically.

**From:** Charles & Sally Withuhn <cswithuhn@yahoo.com>

**Sent:** Tuesday, April 2, 2019 9:40 AM

Exhibit “H”



## City Council Agenda Report

Meeting Date: May 7, 2019

TO: Honorable Mayor and City Council  
Mark Orme, City Manager

FROM: Tony Lindsey, Fire Marshal/Interim Building Official 530-579-6541

RE: Ordinance Amending Section 16R.02.010 and 16R.12.010 of the City of Chico Municipal Code Relating to Emergency Housing

### REPORT IN BRIEF:

The City Council declared a homeless shelter crisis and requested staff investigate the feasibility of alternative housing models such as the Simplicity Village project to provide transitional housing to many of our homeless community members. In April 2018, the California Building Code (CBC) and California Residential Code (CRC) were amended to add voluntary appendices containing building standards applicable to emergency housing. For the appendices to be applicable in Chico, they must be adopted by the City through an ordinance.

Staff is requesting the City Council adopt an ordinance to amend Section 16R.02.010 and 16R.12.010 of the City of Chico Municipal Code to add CBC Appendix N and CRC Appendix X relating to emergency housing.

Appendices N and X would only be effective during a declared "State of Emergency, Local Emergency or Shelter Crisis" and for the duration of the declared housing crisis, the City can issue building permits for emergency housing structures (sleeping cabins, transportable housing units, tents, and support facilities) that otherwise would not meet the minimum state and local laws, regulations, and ordinances.

### Recommendation:

The Interim Building Official recommends Council introduce the following amending Title 16R of the City of Chico Code relating to Building Regulations – Emergency Housing, by reading of title only:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, AMENDING TITLE 16R.02.010 & 16R.12.010 OF THE CHICO MUNICIPAL CODE RELATING TO INCLUDE ADOPTION OF CALIFORNIA BUILDING CODE APPENDIX N AND CALIFORNIA RESIDENTIAL CODE APPENDIX X REGARDING EMERGENCY HOUSING

### FISCAL IMPACT:

Not applicable

### DISCUSSION:

By amending Section 16R.02.010 and 16R.12.010 of the City of Chico Municipal Code to add CBC Appendix N and CRC Appendix X relating to emergency housing, housing units constructed to address basic shelter needs could be constructed to statewide standard during a declared "State of Emergency, Local Emergency or Shelter Crisis" and for the duration of the declared housing crisis. Building permits would be issued and inspections made for emergency housing structures (sleeping cabins, transportable housing units, tents, and support facilities) under the new statewide requirements. Adoption of Appendix N and the 2016 CRC Appendix X will promote safety by adopting the statewide requirements for temporary structures to help address the declared emergency shelter crisis.

These Appendices provide a number of lesser restrictive requirements such as reduced ceiling heights, reduced net openings for windows, loft size reduction, establishment of minimum floor area, and only electrical hookup for sleeping cabins. Appendix N and Appendix X also allow for existing compliant structures to be used for emergency housing facilities. The Department of Housing and Community Development developed these regulations to facilitate

the provision of emergency housing facilities and maintain unified standards for the increased preservation of public health and safety in the construction and use of such structures. In response to a severe shortage of shelter beds and homeless housing projects, on October 2, 2018, Council voted to declare a homeless shelter crisis. Council has also instructed staff to work with proponents of the Simplicity Village project towards promoting their potential solution for emergency housing facility construction. Adoption of these Appendices will assist in the construction of such housing unit construction and development.

#### **ENVIRONMENTAL CONSIDERATIONS:**

The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under Public Resources Code section 21080 (b)(4) for specific actions necessary to prevent or mitigate an emergency. The proposed ordinance is also exempt under Public Resources Code section 21065 and CEQA Guidelines sections 15060 (c)(2) and 15378(a) because it does not have the potential for resulting in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment since there would be no tangible physical change to the environment that is perceptible to the senses. Finally, the proposed ordinance is exempt under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

#### **PUBLIC CONTACT:**

City and Simplicity Village staff have met and corresponded on several occasions to address the issues regarding creating of the proposed form of housing.

Prepared by

  
Tony Lindsey, Interim Building Official

Approved and Recommended by

  
Mark Orme, City Manager

#### **DISTRIBUTION:**

City Clerk (3)

List other internal distribution

#### **ATTACHMENTS:**

- Proposed Ordinance
- Appendix N
- Appendix X

ORDINANCE NO. 2529 5-21-19

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CHICO, CALIFORNIA, AMENDING TITLE 16R.02.010 & 16R.12.010  
OF THE CHICO MUNICIPAL CODE RELATING TO INCLUDE  
ADOPTION OF CALIFORNIA BUILDING CODE APPENDIX N AND  
CALIFORNIA RESIDENTIAL CODE APPENDIX X  
REGARDING EMERGENCY HOUSING**

**WHEREAS**, on December 20, 2016, the City of Chico adopted the 2016 California Building Standards Code and 2016 California Residential Standards Code by codifying such adoption in Chico Municipal Code Section 16R.02.010 and 16R.12.010 respectively through Ordinance 2491;

**WHEREAS**, in April 2018, the State of California amended the 2016 California Building Code and California Residential Code to add voluntary appendices, Appendix N and X respectively, to address building standards applicable to emergency housing;

**WHEREAS**, in for such appendices to be applicable in Chico, they must be adopted by the City by ordinance;

**WHEREAS**, enactment of this Ordinance to adopt and incorporate Appendix N and X of the California Building Code and California Residential Code will continue to keep the City of Chico's building and fire standards, and related regulations, current and consistent with those of the State of California and concurrently provide minimum standards to safeguard health and property welfare within the City of Chico.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
CHICO:**

1                   **Section 1.** Chapter 16.R.02.010.A.1 "Building Standards" of Title 16R of the  
2 Chico Municipal Code is hereby amended to read as follows:

3                   **"16R.02.010** Adoption of standards.

4  
5                   "A. Basic Building Standards. The following regulations, hereby adopted by  
6 reference and incorporated herein, shall constitute the basic building  
7 standards of the city and shall apply to and govern the construction,  
8 alteration, moving, demolition, repair, use, and occupancy of any building  
9 or structure in the city in accordance with the provisions of Section  
10 16.06.020 of this code.

11                   "1. All regulations adopted in the 2016 California Building Code, as  
12 promulgated in Part 2, Volumes 1 and 2, Appendix J (Grading) and  
13 Appendix N (Emergency Housing) of Title 24 of the California Code of  
14 Regulations ("CBC"), including all regulations adopted in the CBC  
15 amending or repealing a volume, chapter, section or appendix of the  
16 International Building Code ("IBC"), which regulations shall take  
17 precedence over the amended or repealed volume, chapter, section or  
18 appendix of the IBC;"

19                   **Section 2.** Chapter 16.R.12.B "Residential Standards" of Title 16R of the Chico  
20 Municipal Code is hereby amended to read as follows:

21                   **"16R.12.010** Adoption of standards.

22                   ...

23  
24                   "B. All regulations adopted in the 2016 California Residential Code, as  
25 promulgated in Part 2.5 of Title 24 of the California Code of Regulations  
26 ("CBC"), including Appendix H, and Appendix X (Emergency Housing),  
27 and all regulations adopted in the CBC amending or repealing a volume,  
28 chapter, section or appendix of the 2015 International Residential Code

1 ("IRC"), which regulations shall take precedence over the amended or  
2 repealed volume, chapter, section or appendix of the IRC."

3 Section 3. The City Council finds and determines that the enactment of this  
4 Ordinance is not a project under the California Environmental Quality Act (CEQA) Cal. Pub.  
5 Resources Code sec. 21000 et seq.) in that the activities described in the Ordinance are the  
6 continuing administrative activity of the City involving general policy and procedure making  
7 and organizational activities of governments that will not result in direct or indirect physical  
8 changes in the environment. (State CEQA Guidelines, Cal Code Regs., Title 14 sec. 15378).  
9 Therefore, no environmental assessment is required or necessary.

10 Section 4. The City Clerk shall attest to the passage and adoption of this Ordinance,  
11 and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty  
12 (30) calendar days after its adoption.

13 Section 5. If any part, provision, or portion of this Ordinance, or its application to  
14 any individual, entity, or circumstance, for any reason, is held to be invalid or unconstitutional  
15 by the decision of any court of competent jurisdiction, such decision shall not affect the  
16 remaining portion of this Ordinance, and shall continue in full force and effect. To this end,  
17 any part, provision, or portion of this Ordinance is severable. The City Council declares that  
18 this Ordinance, and each section, subsection, sentence, clause and phrase thereof, would have  
19 been adopted by the City Council regardless of the fact that any other section, subsection,  
20 sentence, clause or phrase might be declared to be invalid or unconstitutional.

21  
22 THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at its  
23 meeting held on \_\_\_\_\_ by the following vote:

24  
25 AYES:

26 NOES:

27 ABSENT:  
28

1 ABSTAIN:

2 DISQUALIFIED:

3  
4 ATTEST:

5  
6  
7 Deborah R. Presson, City Clerk

APPROVED AS TO FORM:

  
8 Vincent C. Ewing, City Attorney\*

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\*Pursuant to The Charter of the City of Chico, Section 906(E)

## **APPENDIX N**

### **EMERGENCY HOUSING**

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

#### **SECTION N101**

##### **GENERAL**

**N101.1 Scope.** This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section N102.

#### **SECTION N102**

##### **DEFINITIONS**

**N102.1 General.** The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

**DECLARATION OF SHELTER CRISIS.** The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698.)

**DEPENDENT UNIT.** Emergency housing not equipped with a kitchen area, toilet, and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.

**EMERGENCY HOUSING.** Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency, or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units, and tents constructed and/or assembled in accordance with this appendix.

**EMERGENCY HOUSING FACILITIES.** On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing personnel involved in operating the housing, and other emergency personnel.

**EMERGENCY HOUSING SITE.** A site containing emergency housing and emergency housing facilities supporting the emergency housing.

**EMERGENCY SLEEPING CABIN.** Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.

**EMERGENCY TRANSPORTABLE HOUSING UNIT.** A single or multiple section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles, and park trailers. For the purposes of this appendix, emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

**LANDING PLATFORM.** A landing provided as the top step of a stairway accessing a loft.

**LOCAL EMERGENCY.** Local Emergency as defined in the Government Code, Section 8558.

**LOFT.** A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

**MANUFACTURED HOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.

**MOBILEHOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.

**MULTIFAMILY MANUFACTURED HOME.** A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.

**PARK TRAILER.** A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.

**RECREATIONAL VEHICLE.** A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.

**STATE OF EMERGENCY.** State of Emergency as defined in the Government Code, Section 8558.

## **SECTION N103 EMERGENCY HOUSING**

**N103.1 General.** Emergency sleeping cabins, emergency transportable housing units, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency, or shelter crisis.

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

**N103.2 Existing buildings.** Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.

**N103.2.1 New additions, alterations, and change of occupancy.** New additions, alterations, and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration, or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration, or change of occupancy.

Exception: Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.

**N103.3 Occupant load.** Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one.

**Exceptions:**

1. Tents.
2. Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable.

**N103.4 Fire and life safety requirements not addressed in this appendix.** If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms, shall be determined and enforced by the Authority Having Jurisdiction.

**N103.5 Privacy.** Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.

**N103.6 Heating.** All sleeping areas shall be provided with adequate heating as determined by the Authority Having Jurisdiction.

## **SECTION N104**

### **EMERGENCY SLEEPING CABINS**

**N104.1 General.** Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m<sup>2</sup>), excluding lofts.

**N104.2 Live loads.** Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:

1. Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.
2. Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.
3. Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.
4. In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.

**N104.3 Minimum ceiling height.** Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

**Exception:** Ceiling heights in lofts constructed in accordance with Section N108 are permitted to be less than 80 inches (2032 mm).

**N104.4 Means of egress.** Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section N104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section N104.4.1, provided in the loft space.

**N104.4.1 Egress window.** The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m<sup>2</sup>).

**N104.5 Plumbing and gas service.** If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.

**N104.6 Electrical.** Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:

1. Continuous source of electricity.  
**Exception:** The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.
2. At least one interior lighting fixture.
3. Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.
4. At least one GFCI-protected receptacle outlet for use by the occupant(s).

**N104.7 Ventilation.** Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the Authority Having Jurisdiction.

**N104.8 Smoke alarms.** Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.

**N104.9 Carbon Monoxide Alarms.** If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315.

## **SECTION N105 EMERGENCY TRANSPORTABLE HOUSING UNITS**

**N105.1 General.** In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles, and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.

## **SECTION N106 TENTS**

**N106.1 General.** Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

## **SECTION N107 ACCESSIBILITY**

**N107.1 General.** Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.

**Note:** The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.

## **SECTION N108 LOFTS IN EMERGENCY HOUSING**

**N108.1 Minimum loft area and dimensions.** Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections N108.1.1 through N108.1.3.

**N108.1.1 Minimum area.** Lofts shall have a floor area of not less than 35 square feet (3.25 m<sup>2</sup>).

**N108.1.2 Minimum dimensions.** Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

**N108.1.3 Height effect on loft area.** Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. **Exception:** Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

**N108.2 Loft access.** The access to and primary egress from lofts shall be any type described in Sections N108.2.1 through N108.2.4.

**N108.2.1 Stairways.** Stairways accessing lofts shall comply with the California Residential Code or with Sections N108.2.1.1 through N108.2.1.6.

**N108.2.1.1 Width.** Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

**N108.2.1.2 Headroom.** The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosing's in the middle of their width.

**N108.2.1.3 Treads and risers.** Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus  $\frac{4}{3}$  of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus  $\frac{3}{4}$  of the tread depth.

**N108.2.1.4 Landing platforms.** The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.

**N108.2.1.5 Handrails.** Handrails shall comply with the California Residential Code, Section R311.7.8.

**N108.2.1.6 Stairway guards.** Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.

**N108.2.2 Ladders.** Ladders accessing lofts shall comply with Sections N108.2.2.1 and N108.2.2.2.

**N108.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within  $\frac{3}{8}$ -inch (9.5 mm).

**N108.2.2.2 Incline.** Ladders shall be installed at 70 to 80 degrees from horizontal.

**N108.2.3 Alternating tread devices.** Alternating tread devices are acceptable as allowed by the Authority Having Jurisdiction.

**N108.2.4 Loft guards.** Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

## **SECTION N109**

### **LOCATION, MAINTENANCE AND IDENTIFICATION**

**N109.1 Maintenance.** Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the Authority Having Jurisdiction.

**N109.1.1 Fire hazards.** Dangerous materials or materials that create a fire hazard, as determined by the Authority Having Jurisdiction, shall not be allowed on the grounds within emergency housing sites.

**N109.2 Identification.** Emergency housing shall be designated by address numbers, letters, or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.

## **SECTION N110**

### **EMERGENCY HOUSING FACILITIES**

**N110.1 Drinking water.** Potable drinking water shall be provided for all occupants of emergency housing.

**N110.2 Kitchens.** Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.

**N110.3 Toilet and bathing facilities.** When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

**Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.**

**N110.4 Garbage, waste and rubbish disposal.** All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.

## **APPENDIX X EMERGENCY HOUSING**

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

### **SECTION AX101 GENERAL**

**AX101.1 Scope.** This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section AX102.

### **SECTION AX102 DEFINITIONS**

**AX102.1 General.** The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

**DECLARATION OF SHELTER CRISIS.** The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698.)

**DEPENDENT UNIT.** Emergency housing not equipped with a kitchen area, toilet, and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.

**EMERGENCY HOUSING.** Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency, or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units, and tents constructed and/or assembled in accordance with this appendix.

**EMERGENCY HOUSING FACILITIES.** On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the housing, and other emergency personnel.

**EMERGENCY HOUSING SITE.** A site containing emergency housing and emergency housing facilities supporting the emergency housing.

**EMERGENCY SLEEPING CABIN.** Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.

**EMERGENCY TRANSPORTABLE HOUSING UNIT.** A single or multiple section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles, and park trailers. For the purposes of this appendix, emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

**LANDING PLATFORM.** A landing provided as the top step of a stairway accessing a loft.

**LOCAL EMERGENCY.** Local Emergency as defined in the Government Code, Section 8558.

**LOFT.** A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

**MANUFACTURED HOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.

**MOBILEHOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.

**MULTIFAMILY MANUFACTURED HOME.** A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.

**PARK TRAILER.** A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.

**RECREATIONAL VEHICLE.** A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.

**STATE OF EMERGENCY.** State of Emergency as defined in the Government Code, Section 8558.

## **SECTION AX103 EMERGENCY HOUSING**

**AX103.1 General.** Emergency sleeping cabins, emergency transportable housing units, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency, or shelter crisis.

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

**AX103.2 Existing buildings.** Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.

**AX103.2.1 New additions, alterations, and change of occupancy.** New additions, alterations, and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration, or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration, or change of occupancy.

**Exception:** Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.

**AX103.3 Occupant load.** Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one.

**Exceptions:**

1. Tents
2. Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010 as applicable.

**AX103.4 Fire and life safety requirements not addressed in this appendix.** If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms, shall be determined and enforced by the Authority Having Jurisdiction.

**AX103.5 Privacy.** Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.

**AX103.6 Heating.** All sleeping areas shall be provided with adequate heating as determined by the Authority Having Jurisdiction.

## **SECTION AX104 EMERGENCY SLEEPING CABINS**

**AX104.1 General.** Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m<sup>2</sup>), excluding lofts.

**AX104.2 Live loads.** Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:

1. Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.
2. Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.
3. Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area
4. In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads

**AX104.3 Minimum ceiling height.** Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

**Exception:** Ceiling heights in lofts constructed in accordance with Section N108 are permitted to be less than 80 inches (2032 mm).

**AX104.4 Means of egress.** Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section N104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section N104.4.1, provided in the loft space.

**AX104.4.1 Egress window.** The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m<sup>2</sup>).

**AX104.5 Plumbing and gas service.** If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.

**AX104.6 Electrical.** Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:

1. Continuous source of electricity.

**Exception:** The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.

2. At least one interior lighting fixture.
3. Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.
4. At least one GFCI-protected receptacle outlet for use by the occupant(s).

**AX104.7 Ventilation.** Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the Authority Having Jurisdiction.

**AX104.8 Smoke alarms.** Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.

**AX104.9 Carbon Monoxide Alarms.** If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315.

## **SECTION AX105 EMERGENCY TRANSPORTABLE HOUSING UNITS**

**AX105.1 General.** In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles, and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.

## SECTION AX106 TENTS

**AX106.1 General.** Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

## SECTION AX107 ACCESSIBILITY

**AX107.1 General.** Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.

**Note:** The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.

## SECTION AX108 LOFTS IN EMERGENCY HOUSING

**AX108.1** Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AX108.1.1 through AX108.1.3.

**AX108.1.1 Minimum area.** Lofts shall have a floor area of not less than 35 square feet (3.25 m<sup>2</sup>).

**AX108.1.2 Minimum dimensions.** Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

**AX108.1.3 Height effect on loft area.** Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

**Exception:** Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

**AX108.2 Loft access.** The access to and primary egress from lofts shall be any type described in Sections N108.2.1 through N108.2.4.

**AX108.2.1 Stairways.** Stairways accessing lofts shall comply with the California Residential Code or with Sections AX108.2.1.1 through AX108.2.1.6.

**AX108.2.1.1 Width.** Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

**AX108.2.1.2 Headroom.** The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

**AX108.2.1.3 Treads and risers.** Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus  $\frac{4}{3}$  of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus  $\frac{3}{4}$  of the tread depth.

**AX108.2.1.4 Landing platforms.** The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.

**AX108.2.1.5 Handrails.** Handrails shall comply with the California Residential Code, Section R311.7.8.

**AX108.2.1.6 Stairway guards.** Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.

**AX108.2.2 Ladders.** Ladders accessing lofts shall comply with Sections AX108.2.2.1 and AX108.2.2.2.

**AX108.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within  $\frac{3}{8}$ -inch (9.5 mm).

**AX108.2.2.2 Incline.** Ladders shall be installed at 70 to 80 degrees from horizontal.

**AX108.2.3 Alternating tread devices.** Alternating tread devices are acceptable as allowed by the Authority Having Jurisdiction.

**AX108.2.4 Loft guards.** Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings

from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

## **SECTION AX109 LOCATION, MAINTENANCE AND IDENTIFICATION**

**AX109.1 Maintenance.** Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the Authority Having Jurisdiction.

**AX109.1.1 Fire hazards.** Dangerous materials or materials that create a fire hazard, as determined by the Authority Having Jurisdiction, shall not be allowed on the grounds within emergency housing sites.

**AX109.2 Identification.** Emergency housing shall be designated by address numbers, letters, or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.

## **SECTION N110 EMERGENCY HOUSING FACILITIES**

**AX110.1 Drinking water.** Potable drinking water shall be provided for all occupants of emergency housing.

**AX110.2 Kitchens.** Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.

**AX110.3 Toilet and bathing facilities.** When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.

**AX110.4 Garbage, waste and rubbish disposal.** All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.

# Exhibit “I”



## CITY OF CHICO OFFICIAL PLANNING DIRECTOR INTERPRETATION

**Applicant:** Chico Housing Action Team (CHAT)

**Location:** **Simplicity Village** (2.6 acre parcel located on Notre Dame Blvd., south of Morrow Lane; APN# 040-030-028)

**Authority:** Chico Municipal Code Sections 19.02.020 (Rules of interpretation), 19.02.020.E. (Allowable Uses of Land), and 19.02.030 (Procedures for interpretations)

**Applicable Code Section(s):** Sections 19.22.020 (Temporary uses, allowed by right), 19.22.020.C (Emergency Facilities)

**Discussion:** Applicant proposes to use the parcel on Notre Dame Blvd. for a project known as "**Simplicity Village**" – a tiny home complex with **33 housing units** and 2 supporting portable units providing offices, bathrooms, showers, washers and dryers, and a community kitchen (**Attachment A - Site Plan**). The project will provide **housing to approximately 46 homeless, or at risk of being homeless, senior singles and couples**. The site is located in the ML (Light Manufacturing/Industrial) zoning district. **Emergency Facilities are permitted by right within the ML district (CMC Section 19.22.020 & 19.46.020).**

As a threshold question for analysis of this matter, **the Director must determine whether the use presented is similar to an Emergency Facility as defined under the CMC.** Based upon information provided by the applicant intending to operate the facility, and as discussed below, **the Director has determined that the use is within what would be considered an "Emergency Facility" and therefore constitutes an allowed temporary use pursuant to Section 19.22.020.C under the category "Emergency Facilities. Emergency public health and safety needs/land use activities."**

Facts supporting this determination include:

1. The site on Notre Dame Blvd., south of Morrow Lane (APN# 040-030-028) is located in the ML (Light Manufacturing/Industrial) zoning district;
2. Emergency Facilities are permitted by right within the ML district (CMC Section 19.22.020);
3. Applicant has provided the attached Simplicity Village Business Plan (**Attachment B**), Management Plan (**Attachment C**), and Village Manual (**Attachment D**) which provide

information highlighting the manner in which the facility will operate, and includes specifics that address a number of compatibility and safety considerations, including a security plan, safety plan, fencing of the site, participant vetting process, residency rules and governance, alcohol/drug policy, and site supervision; and

4. Temporary uses are short-term activities that might not meet the normal development or use standards of the applicable zoning district, but are acceptable because of their temporary nature;
5. Applicant intends to utilize this facility through the duration of the Housing Shelter Crisis set to sunset on June 30, 2021 (see Reso. 82-18, October 2, 2018);
6. The City's declaration of a Shelter Crisis included a finding that a significant number of persons within the City are without the ability to obtain housing, resulting in a threat to their health and safety. The proposed temporary use will address this emergency need;
7. The use is temporary and will be allowed for a duration consistent with the City's Declaration of a Shelter Crisis which ends on June 30, 2021;
8. Development of the project site will be consistent with the State of California's Building Code Appendix N (Emergency Housing), developed by the State to be applicable to emergency housing and emergency housing facilities under the Shelter Crisis Declaration; and, adopted by the City of Chico to address construction of Emergency Housing. All building at the project site will be by permit, reviewed and approved by the City's Building Official and Fire Marshall; and
9. Applicant shall comply with all other State and local Code provisions, including, but not limited to, those of the Building Division, Public Works Department, and Fire Department. Applicant is responsible for contacting these offices to verify the need for permits.

I hereby make the following findings in support of this interpretation as to similar uses allowed, as required pursuant to CMC 19.02.020.E. "Allowable Uses of Land":

- a. *The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a higher level of activity or density and/or intensity than the uses listed in the district.*

Finding: The current zoning of the property on Notre Dame Blvd. (south of Morrow Lane) is ML (Light Manufacturing/Industrial). The ML zoning district primarily consists of areas where light assembly and manufacturing, wholesaling, warehousing and distribution, agricultural and industrial processing within structures, and support commercial services are allowed. Additionally, Emergency Facilities are permitted by right within the ML district (CMC Section 19.22.020). Emergency Facilities are defined as, "Emergency public health and safety needs/land use activities."

"Temporary emergency shelters" are permitted by right in the ML zoning district for up to 27 days in any 90 day period, and permanent "Emergency shelters" are allowed with approval of a use permit. Emergency shelters are defined in CMC Section 19.04 as "[a] facility which provides emergency shelter to homeless individuals and/or groups or others in need of shelter. Such accommodations include lodging and may in addition include meals, facilities, bathing, counseling, and other basic support services."

The proposed temporary proposed tiny home temporary emergency facilities includes activities that are generally compatible to other uses allowed in the ML zoning district. Such use is not incompatible with the other uses of the ML zoning district of manufacturing, agricultural, and industrial processing, general services and distribution uses, including uses with outdoor equipment and outdoor storage.

The proposed use is further acceptable due to its temporary nature, the operational characteristics proposed by the applicant, and given the urgency of the need to provide emergency public health and safety needs to the community's significant number of homeless, which is documented by the State's and City's Shelter Crisis Declaration, and has more recently been exacerbated by a significant influx of Camp Fire survivors.

- b. *The proposed use will meet the purpose/intent of the zoning district that is applied to the site.*

Finding: Permanent emergency shelters are allowed in the ML zoning district with approval of a use permit. The proposed use however is not permanent in nature and is associated with the limited duration of the shelter crisis declaration. The proposed tiny home facilities represents a use that has operating characteristics generally consistent with an allowed use in the Municipal Code, albeit with a use permit. The operational characteristics of the proposed use are similar to conditions typically found in a use permit. Given the temporary nature of the proposed use, it is consistent with the purpose and intent of the ML zoning district.

The proposed use of emergency housing for a duration through the shelter crisis is equivalent to an emergency facility allowed by right within the ML zoning district.

- c. *The proposed use will be consistent with the goals, policies, and actions of the Chico 2030 General Plan, as well as the City's HUD Consolidated Plan.*

The following General Plan goals, policies, and actions are applicable to this determination:

Goal H.3	Promote construction of a wide range of housing types.
Policy H.3.3	Promote a mix of dwelling types and sizes throughout the City.
Action 3.3.3	Support emerging cost efficient and green housing models, such as "micro-housing" and live/work lofts.
Goal H.4	Encourage the creation of housing for persons with special needs
Policy H.4.6	Encourage the development of housing for homeless and extremely low-income persons.

The following HUD Consolidated Plan (2015-2019) goal is applicable to this determination:

- Goal 1 Create Low Income affordable housing opportunities for residents, with a priority on:
- Small units – tiny houses, micro-units, single room occupancies, studios, one-bedrooms
  - Supportive services for – substance abuse, mental illness, child care, seniors, veterans, persons with disabilities
  - Accessibility
  - Extremely Low Income Households and person at risk of homelessness
  - Fair Housing

**Interpretation and determination:**

Pursuant to Section 19.02.020.A of the Municipal Code, I have determined that in light of the State's and City's Declaration of a Shelter Crisis, compounded by the significant influx of Camp Fire evacuees, that the proposed tiny home temporary emergency facilities use on Notre Dame Blvd., south of Morrow Lane (APN# 040-030-028) represents an allowed temporary use as an "Emergency Facilities" use provided in Section 19.22.020.C of Chapter 19.22 (Temporary Uses) of the Chico Municipal Code.

**This Official Interpretation is effective immediately.**

  
Brendan Vieg, Community Development Deputy Director

**Date: June 14, 2019**

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**PROOF OF SERVICE**

I am employed in Shasta County, California; I am over the age of 18 years and not a party to the within action; my business address is MCNEILL LAW OFFICES, 3330 Churn Creek Rd., Suite D2, Redding, California 96002; on this date I served:

**VERIFIED PETITION AND COMPLAINT**

  X   BY U.S. MAIL: I mailed a true copy thereof in a sealed envelope, with postage thereon fully prepaid, in the United States Mail at Redding, California, addressed as set forth below.

**SERVICE BY MAIL PRIOR TO FILING: Pursuant to Public Resources Code §21167.5, this shall also confirm and constitute proof that the VERIFIED PETITION AND COMPLAINT, identifying "Simplicity Village" as the project which is the subject of the action, was served by mail upon the City of Chico –as the public agency approving the project— prior to the filing of the VERIFIED PETITION AND COMPLAINT.**

City of Chico City Clerk – Deborah Presson 411 Main Street Chico, CA 95928	
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

  X   I hereby certify that the document(s) listed above was / were produced on paper purchased as recycled.

  X   STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

       FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on Nov.1, 2019  
at Redding, California



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Walter P. McNeill